ESTATE TAX STRATEGIES WITH ALAN GASSMAN

Charitable Remainder Trusts from A to Z

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THE ADVISOR'S GUIDE TO CHARITABLE GIVING, ORGANIZATIONS, AND CREATIVE STRUCTURING

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This book was written for tax advisors to provide thorough, yet understandable, explanations and strategies that are not always clear or properly understood. A primary focus of the book is the practical opportunities that are commonly overlooked or not known by even the best tax experts. The authors welcome questions, comments, and suggestions, as well as interaction, to make tax planning for charitable giving easier to understand.

"This is the best practical charitable tax planning resource out there. Advisors can do no better than to have this book handy to help their clients maximize both the tax and non-tax benefits of their charitable giving. The summaries, checklists and comparison charts give the essential quick-reference nutshells to go from starting the plan to the crucial follow through necessary for initial and ongoing qualifications. There is extensive discussion and helpful authority cited throughout. However, it's not so heavy with regulations and jargon that you lose the forest in examining the lichen on the trees."

-Edwin Morrow III, Wealth Strategist for Huntington Private Bank® Wealth Management

National Institute for Charitable Education, Inc

The National Institute for Charitable Education, Inc. “NICE” is a 501(c)(3) organization established and operated for the purposes of educating professionals and the general public on charitable giving and providing students with writing, presenting and work related opportunities. Those accepted will have the opportunity to co-write articles on tax and other related charitable topics that will be nationally published and to contribute to an established book entitled, "The Advisor’s Guide to Charitable Giving, Organizations, and Creative Structuring."

Opportunities offered by this program:

1. Develop your writing skills by co authoring with well-respected lawyers and authors,
2. Be nationally published,
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5. Networking for possible future jobs and professional and charitable contacts and professional growth.

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The Five Dimensional Charitable Plan

Noble Cause(s)	Tax Savings	Recognition	Who is Involved?	Desire for Control and Security
1. Helping children 2. Defending rights 3. Helping the elderly 4. Assisting with education 5. Supporting Israel 6. Helping animals 7. Helping the ecology 8. Helping your hometown 9. Helping your school 10. Scholarship funds 11. Shelter for single mothers 12. Helping the homeless 13. Helping immigrants 14. Helping homeless Ukrainians 15. Curing cancer 16. Curing Parkinson's disease 17. Helping your church, synagogue, or mosque	1. Tax deduction—December 31 year end 2. Getting above 50% AGI—income-producing assets transferred to charity for complex trust 3. The liquidity event A. Place in CRT before sale B. Place in charity before sale C. Place in tax-deductible CLAT before sale 4. The $105,000 (and growing with inflation) IRA Qualified Charitable Distribution by year end 5. Avoid federal estate tax—CLAT now or later	1. We have our own family foundation 2. Recognition by local or national organizations 3. Involvement of spouse—who may have other motives 4. Involvement of family 5. Naming buildings and parts of buildings 6. Sponsoring matching fund 7. Hosting fundraiser parties and events 8. Would your parents be proud?	1. Spouse 2. Children 3. The community/ recognition 4. Charitable professionals 5. Tax advisors, 6. Financial advisors 7. Estate planning advisors 8. Life insurance advisors 9. Clergy 10. National Public Radio and local affiliates	**<u>Control—may control:</u>** 1. Private Foundation 2. Account under donor advised fund 3. Scholarship fund decisions **<u>Security</u>** 1. May work for foundation to earn a living 2. May receive payments from charitable remainder trust 3. May save tax refunds in safe investments

UJA Federation NEW YORK

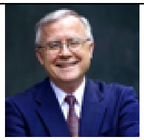
50 WAYS TO LEAVE YOUR LEGACY

(Outright Gifts)		
For non-itemizers: $300/per person and $600/per married couple for non-itemizers for 2020 and 2021	You had to give cash.	**Not available in 2022**
For taxpayers who itemize deductions for tax year 2023: When itemized deductions exceed $13,850/single taxpayers, $20,800 for heads of households and $27,700 for married taxpayers.	You have automatic deduction for these amounts, unless the sum of property taxes up to $10,000, plus medical expenses exceeding 7.5% of adjusted gross income, plus interest expense allowable on home mortgage, plus charitable deductions exceed these thresholds. Strategy is every other year or every third year; you pay a lot to get over the threshold to have the deduction – called bunching your deductions.	You can pay the excess money to a charity or to a donor advised fund and then later it is given to a charity.
If you are over 70-1/2: You can do a qualified IRA transfer.	You can transfer up to $100,000 a year directly from your IRA to charity.	For 2020 and 2021, it is unlimited for anyone over 59-1/2.
Depreciable buildings:	Can be given to a Private Operation Foundation or Public Charity for fair market value of building without depreciation recapture – building may be subject to old debt if qualifies under the "old debt exception" to the Unrelated Business Taxable Income ("UBTI") rules.	Donor can continue to manage the building and remit rent income to charity while getting a deduction for the total fair market value of the building.
Part Ownership of Business:	Donor retains control of business and gives part ownership to charity. Donor receives income tax deduction for value, and charity receives part of profits.	*See* LISI Charitable Planning Newsletter #280 - Alan Gassman, John Beck & Michael Lehmann: Donor Controlled Charitable Business System (March 11, 2019) at http://www.leimbergservices.com.
Have a Party for Charity:	Write off the cost, or have the charity reimburse you for the cost. Redecorate your house while you are at it.	Please Invite the Author
Ask Clients Who Dispute Your Fees to Pay the Amount in Question to a Worthy Charity.		

50 WAYS TO LEAVE YOUR LEGACY

(Outright Gifts)		
No More Free Consultations – Ask that a Donation Go to UJA if the Client Does Not Hire You.		
Move a Historical House to a Museum or Orphanage:	Deduct the full value of the antique home if actively displayed by charity – What about if used by students who learn how to disassemble?	
For Donors Who Would Like to Go Above the Maximum Adjusted Gross Income Donation Amounts:	2021 – Could create income by withdrawing from IRA or otherwise and give to charity adjusted gross income/cash rule that expired December 31, 2021. Make interest-free loans to the charity. Provide rental space without charging rent to a charity. Pay for advertising and sponsorship rights. Subsidize contributions made by friends and family members who can donate and receive tax deductions.	
Collectibles: You can give collectibles like cars, jewelry and artwork.	Deduction can be based on fair market value, if the charity uses the item received as part of its mission.	**EXAMPLE:** Artwork displayed in a museum or university hallway.
Buy Your Loved One New Jewelry and Donate the Old Jewelry at Fair Market Value:	The fair market value of used jewelry may substantially exceed what it would actually sell for – valuation of jewelry can be based upon what the taxpayer would normally pay.	Must be used / displayed by the charity to deduct fair market value.
Make Gifts from Low Income Bracket Taxpayers to High Bracket Taxpayers to Enable Them to Make a Donation:	Example: Grandma is in the 15% bracket and wants to give $20,000 to her church. Her son is in the highest bracket and makes a $20,000 donation. Grandma may choose to give her son a $20,000 disposition under her estate plan.	
Gift Life Insurance Policies	Gift equals value of policy-Minus any ordinary income that would have been recognized on sale-premiums tax deductible after charity owns the policy.	Must appraise life policy in appropriate manner.

50 WAYS TO LEAVE YOUR LEGACY

(Legacies on Death – Whether Directly on Death or Contingent Upon Others Not Surviving)		
Leave Cash in Your Will or Trust:	No income tax deduction, but there will be an estate tax deduction.	
Provide that Income from Your Estate or Trust Will Be Paid to the Charity:	This carries out distributable net income to save income tax for Remainder Beneficiaries. Must have Section 642(c) language in original Trust Agreement	 Professor Dennis (“DNI”)Calfee
Give IRD (Income with Respect to a Decedent) Assets: **Note-**This means give your IRA to charity	No income tax will be paid on IRA proceeds going directly to charity or passing through properly drafted trust to charity.	Distribution to charity will qualify for estate tax charitable deduction
Life Insurance:	Can deduct premiums if charity owns the policy.	
Use Charitable Lead Annuity Trusts (“CLATs“) to Zero Out Estate Tax:	Jacqueline Kennedy Onassis – **EXAMPLE:** 15 annual payments to charity with remainder to family – zero estate tax and family can expect a significant inheritance after term of years for charity.	Can arrange as a disclaimer choice – I give the rest to my daughter, but anything she disclaims goes to CLAT for charity.
Charitable Remainder Trusts:	Pay my family annually for 20 years the maximum percentage that is allowed each year and can apply without incurring estate tax. Make annual payments for life of my son, and remainder to charity thereafter.	Remainder to charity chosen at the time.

3. 50 WAYS TO LEAVE YOUR LEGACY

(Hybrid Donations – Promise During Lifetime for Gift on Death – Deduct the Value of the Tree – Keep the Fruit)		
Give a Remainder Interest in a Personal Residence – Retain Life Estate:	Good for elderly donor who may donate life estate later.	Will not detrimentally impact Medicaid planning?
Give a Remainder Interest in the Family Farm:	This works the same as giving the Remainder Interest in your home.	
Charitable Remainder Trusts: (CRATs and CRUTs are defined below)	Get tax deduction and tax deferred capital gains by giving away the tree and receive the fruit for a period of time – get tax deduction upon formation.	Some charities will form the CRT and serve as Trustee at no charge, if certain requirements are met.
Charitable Remainder Annuity Trusts ("CRATs"):	Donor will receive a fixed annual payment, notwithstanding the performance of the Trust until assets run out. May receive all back.	
Charitable Remainder Unitrusts ("CRUTs"): **Don't Heschitate To Do One** 	Donor will receive a percentage of value of Trust each year, and share in increasing values – presently approximately 11% per year of value for 20 years if not using a life payment. Upon inception, the table value for remainder to charity need not exceed 10% - Allows for deferral of capital gains.	Ideal for holding an asset that is about to be sold. Using FLIP NIMCRUT can allow for up to 14 years deferral of all income tax from a large transaction like the sale of a business or highly appreciated stock. May work best economically.
Charitable Lead Annuity Trust ("CLATs"):	Charity gets fixed payments for a term of years – remainder can pass estate and gift tax-free to next generation after term of payments.	Most often arranged so that Grantor gets a 100% charitable income tax deduction, even though much passes estate tax-free to family after term of years payments to charity.
Charitable Life Annuity for Donor or Family for Lifetime Payments that May Start in the Future.	Part Gift, Part Purchase – can give appreciated assets without paying taxes on "sale."	Payments during "life expectancy" are part capital gains, part ordinary income and part return of capital. All ordinary income after life expectancy.
Pooled Income Funds.	All ordinary income when received.	

50 WAYS TO LEAVE YOUR LEGACY

(Liquidity Event Planning)		
Sell Asset or Company and Then Give Cash from Sale to Charity:	Least effective.	**EXAMPLE:** Sell $1,000,000 asset with zero basis and donate $200,000 to charity. Pay capital gains tax on $800,000. 23.8% of $800,000 is $190,400. $800,000 - $190,400 = $609,600.
Gift Part Ownership of What Will Be Sold to Charity Immediately Before There is a Legally Binding Obligation:	The tax deduction for the value of what is given will eliminate income tax on an equal portion sold.	**EXAMPLE:** Donate 20% of $1,000,000 company to charity and sell 80% for $800,000. $190,400 - $142,800 = $47,000 tax savings $800,000 – $142,800 = $657,200.
Defer All Income Tax From Sale for Approximately 14-15 Years Using Charitable Remainder Unitrust ("CRUT"):		In Example above, donate 20% to charity before sale, and have 80% be given to and sold by Charitable Remainder Unitrust – Pay income taxes ratably, based upon 11% of value withdrawals over 20 years, or defer any distributions for up to 14-15 years using FLIP NIMCRUT.

50 WAYS TO LEAVE YOUR LEGACY

(Liquidity Event Planning)		
Place Assets in a FLIP NIMCRUT that pays 90% of value under tables to Grantor.	Grantor places NIMCRUT Unitrust income under LLC and sells 99% non-voting interest to Grantor Trust for note. The discount may be 50% because of the uncertainty and delay in receiving any distributions. **Example:** $1 million of investments into CRUT for $900,000 Unitrust interest. Client gets $100,000 tax deduction. Sell 99% non-voting interest in LLC that holds CRUT payment to SLAT or Dynasty Trust for a note for $450,000. Savings at 40% estate tax rate and with charitable deduction will be much more than the charity receives.	

50 WAYS TO LEAVE YOUR LEGACY

(To Avoid Estate Tax)		
Use Administrative Note Exception to Prohibited Transaction Rules.	Grandfather has $10 million worth of stock in family business and is in 40% estate tax rate. On his death, IRS will receive $4 million over 14 years, or within 9 months after date of death. -- The exception that should apply in this situation provides that a note given for the purchase of assets after the death of the owner based upon an existing option will not constitute self-dealing with respect to "estate property,"[1] regardless of when title vests under local law if the following requirements are satisfied: a. The administrator or trustee either possesses a power of sale with respect to the property, has the power to reallocate the property, or is required to sell the property under terms of any option subject to which the property was acquired. b. The transaction is approved by the probate court having jurisdiction over the estate (or by another court having jurisdiction over the estate (or trust) or over the Private Foundation). c. The transaction occurs before the estate is considered to be terminated for federal income tax purposes. d. The estate or trust receives at least fair market value for the interest or expectancy the purchasing entity has in the property. e. One of the following three requirements must also be met: (i) the transaction is required under the terms of an option that is binding upon the trust or estate.	Instead, his Will says that the stock will go to Worthy Charity, but his children will have the option to buy the stock for a long-term low interest note from the estate and owe the note to a Family Foundation that will support the school. Now the children can pay Saint Petersburg College interest on $10 million for 30 years at applicable federal rate (now just about 2% per annum or $200,000 a year, income tax deductible), instead of paying $4 million to the IRS.

50 WAYS TO LEAVE YOUR LEGACY

(To Avoid Estate Tax)		
	(ii) The transaction results in the foundation receiving an interest or expectancy as liquid as the one it would have received. (iii) The transaction results in the Foundation receiving an asset related to the active carrying out of its exempt purposes. f. If there are voting units issued by the company, the transaction can only involve the non-voting interest in the company if sale is to a Private Foundation. This is because indirect self-dealing will occur if a Private Foundation controls the organization that is a party to the transaction with a Disqualified Person. Strict compliance with the above requirements must occur for this exception to be effective.	
Use Disclaimers:	I leave my $10 million of stock in trust for my son, John Smith, Esquire, but if the trustee disclaims the stock goes to the CLAT for my son, but if the CLAT trustee disclaims then the stock goes to a 501(c)(3) organization named by the trustee.	

6. NEARLY 50 WAYS TO LEAVE YOUR LEGACY

(On Death)		
Leave a Devise to a High Income Child Who can Donate to Charity to get a Tax Deduction.		
Variable Annuities Laden with Ordinary Income	Beneficiary can be charity in amount equal to all income in the contract within X months of death, with remainder to charity or elsewhere.	
Leave IRA and Variable Annuity Income or other IRD to Pot Trust.	Where trustee can pay IRD amounts to charities in the calendar year of receipts until age 13.	
IRA and/or Pension Payable to Charitable Remainder Trusts:	Stretch the IRA 20 years or over a lifetime or lifetimes by making it payable to a Charitable Remainder Trust ("CRT") or FLIP NIMCRUT to avoid 10-year payout rule.	
Use Charitable Lead Annuity Trusts ("CLATs") to Zero Out Estate Tax:	Jacqueline Kennedy Onassis – **EXAMPLE:** 15 annual payments to charity with remainder to family – zero estate tax and family can expect a significant inheritance after term of years for charity.	Can arrange as a disclaimer choice – I give the rest to my daughter, but anything she disclaims goes to CLAT for charity and her.
Leave Assets to a "Non-Qualified Charitable Trust", Which can Pay its Income to Charity	The trust will not be subject to the charitable organization rules, and can own S corporation stock and have Unrelated Business Taxable Income without penalty.	Be aware of IRC § 680, which may limit charitable deductions for income that would be UBTI, if the trust was a charity.

7. 50 WAYS TO LEAVE YOUR LEGACY

(Using Family Foundations)		
Establish A Private Operating Foundation to Receive/Control Donated Assets and Interactive Joint Venture with Public Charity.	Usually the same tax result, control can stay with the family along with recognition of the name of the Foundation.	Must spend 4.25% of value each three out of every four years and/or use set-aside.
Establish Non-Operating Private Foundation with Same Purposes as Above, But Without Active Participation Requirements.	Private Foundations are subject to deduction limitation rules that do not apply to Private Operating Foundations – Must distribute approximately 5% each year to Public Charities.	The family can control and write checks to Public Charities or engage in active Joint Ventures.
Fund an Incomplete Gift Family Foundation.	Family receives recognition of the Family Foundation name and existence, but no tax deduction until the incomplete gift Foundation makes a transfer to charity. No tax return or formalities required – considered as owned by founders.	No need to register this with the IRS, no need to give minimum distributions, simple inexpensive way to see if the family would enjoy having a Foundation or to earmark assets for charitable purposes while receiving recognition.

2024 Charitable Deduction Percentage Summary Chart

Special Notes:

1 Donations to charitable remainder annuity trusts and charitable remainder unitrusts can generate deductions in the same categories as shown on this chart.

2 C corporation can deduct up to 10% of its taxable income

3 Assets left on death do not qualify for an income tax deduction but can save income taxes on "income in respect of a decedent" (IRAs, pension accounts, variable annuities, etc.)

4 Individual taxpayers who itemize:
- a. 2024 single individual - $14,600
- b. 2024 married couple - $29,200
- c. 2024 heads of household - $21,900

5 IRAs may be payable to charitable trusts to defer income up to 20 years.

6 Private foundation means not "operating."

*A private operating foundation recieves better tax treatment.

20%

Up to 20% of your adjusted gross income in appreciated securities to a Private Foundation (not operating)

30%

Up to 10% *CASH ONLY*

Up to 20% in non-cash to a Private Foundation (not operating)

50%

Up to 30% in appreciated assets and...

20% in non-appreciated assets to a Private Operating Foundation or a Public Charity (including a Donor Advised Fund, a Supporting Organization and a Community Foundation.)

60%

CASH ONLY

Up to 60% of adjusted gross income to a Public Charity or a Private Operating Foundation -- All cash--cannot count non-cash assets given to left.

100%

SPECIAL RULE FOR TAXPAYERS OVER 70-1/2

- - - Can transfer up to $105,000 from an IRA to a Public Charity, Private Operating Foundation, or a Community Foundation. EXCLUDES: Donor Advised Funds, Supporting Organizations, and Private (Non-Operating) Foundations.

Topic #1:

Introduction to Charitable Remainder Trusts

Charitable Remainder Trusts

- A Charitable Remainder Trust allows a donor to transfer assets into an irrevocable trust and receive annual payments for a period not to exceed 20 years, for life, or for multiple lives.

- At the end of the non-charitable term, all remaining trust assets are contributed to a charity of the donor's choice.

- The donor is entitled to a charitable income tax deduction in the year the contribution is made based upon the present value of the assets that will pass to charity at the end of the non-charitable term of the Charitable Remainder Trust.

- There are two Charitable Remainder Trusts, the Charitable Remainder Unitrust (the "CRUT") and the Charitable Remainder Annuity Trust (the "CRAT"). The CRAT pays a fixed amount to the non-charitable beneficiary each year while the CRUT pays a fixed percentage of the value of the trust assets each year.

- A Charitable Remainder Trust is not a §501(c)(3) charity but is tax exempt.

- The Charitable Remainder Trust is subject to the rules and restrictions applicable to private foundations, including the self-dealing restrictions, unless no charitable deduction is taken at formation or during the term of the Charitable Remainder Trust.

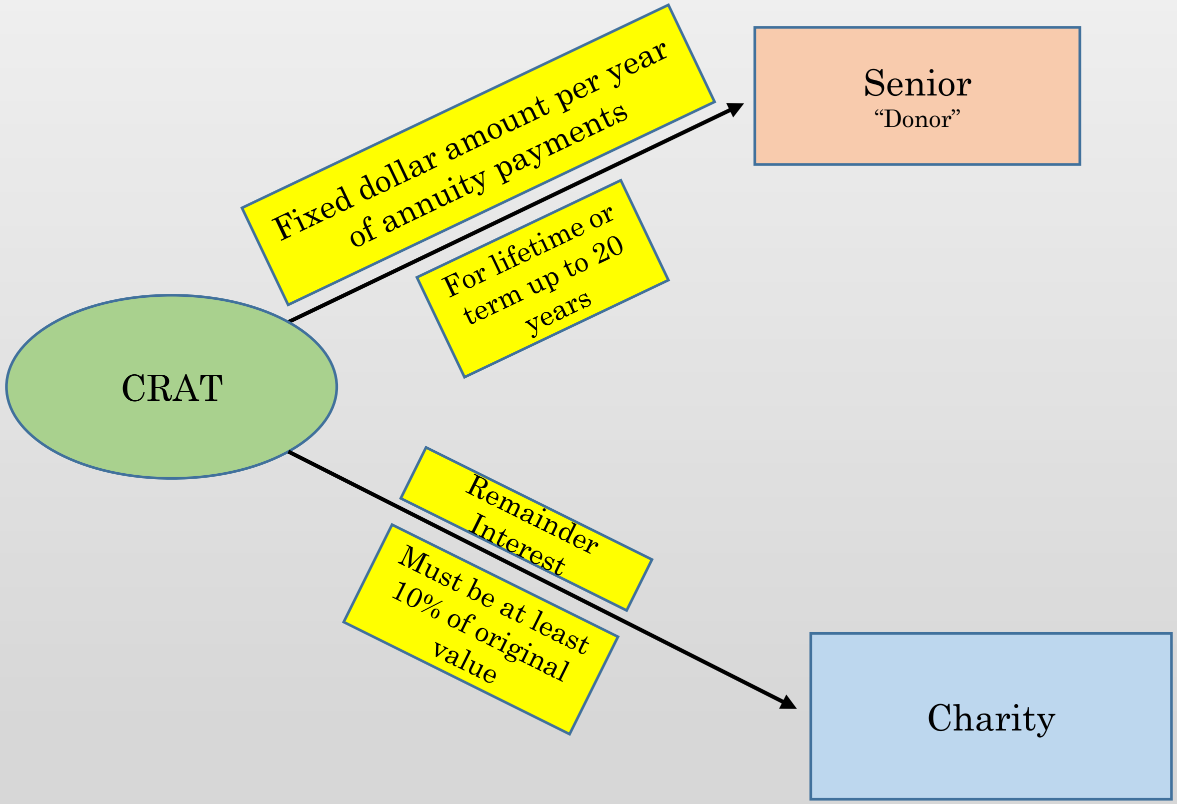
The CRUT and CLAT is Where It Is At

Senior wishes to benefit his favorite charity and his children in the most tax efficient manner.

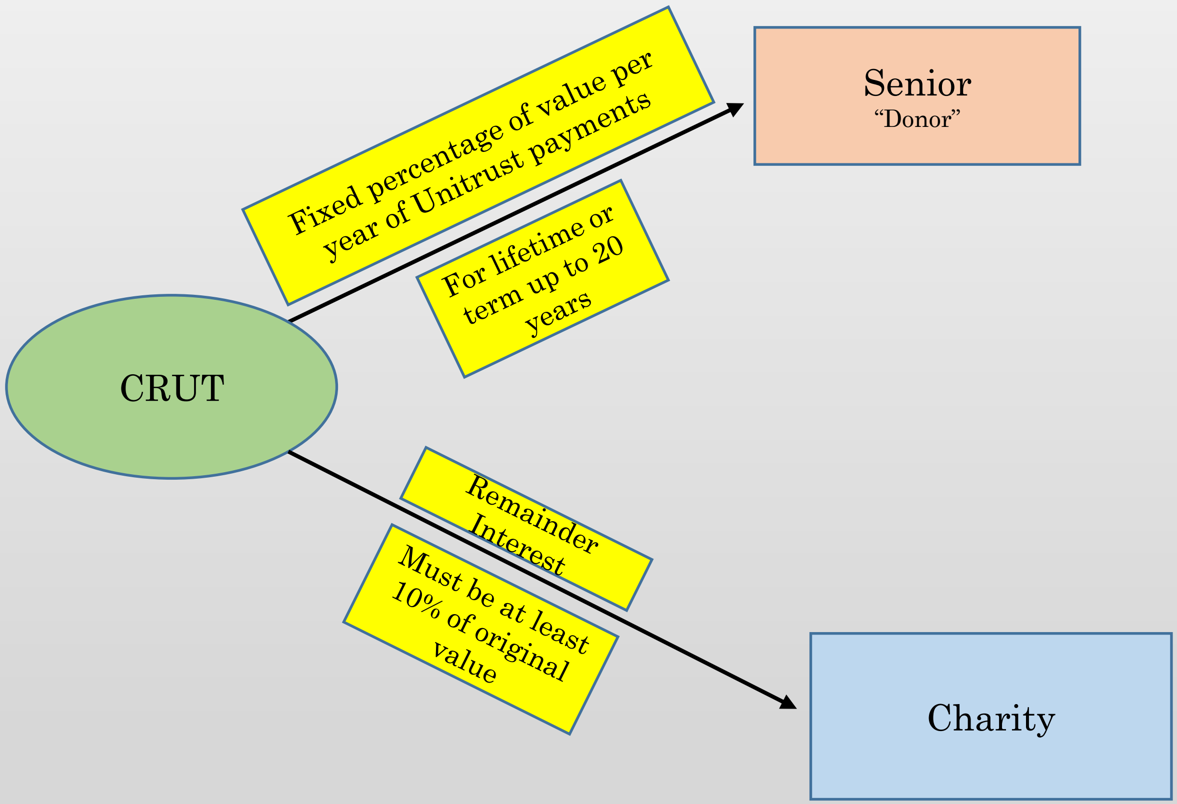
He establishes a charitable remainder unitrust (CRUT) that will pay him 5% of the value of the CRUT assets each year for six years, with the remainder passing to charity.

This is pictured in the following slide:

Anatomy of a CRAT



Anatomy of a CRUT



Charitable Remainder Trust

Donor transfers cash or assets to Charitable Remainder Trust.

Donor may receive:

A. Income tax deduction based upon actuarial value of remainder interest to charity.

B. Tax deferred income – The Charitable Remainder Trust may sell appreciated assets and is not itself taxed – Taxation comes with distributions to the beneficiary ("the worst first").

C. Creditor protection if a CRAT formed in a state that protects annuities from creditors.

D. Availability of a good gifting device to keep beneficiaries receiving payments over the years.

CRUT
or
CRAT

Pays "Annuity" or "Unitrust" payments each year to donor or named individuals and/or charities.

A. The payments will be annual – or may be delayed until there is a "flip" or "net income" if a NIMCRUT or a FLIPNIMCRUT.

B. Can be set as term of years ("up to 20"), for lifetime of one or more individuals, or for the shorter of a stated number of years ("not exceeding 20") and one or more lives "not pur autre vie" – Must be for lifetime of payment recipient.

C. A trustee other than the donor can "spray" the annual payments among multiple beneficiaries in the trustee's discretion.

D. To avoid gift donor can retain the right to terminate annual payment interests upon death of donor.

At the end of the payment term assets will pass to a Section 501(c)(3) organization:

A. If required to be a public charity or private operating foundation 50% AGI deduction will apply.

B. If required to be a private foundation or charity above 20%/30% AGI deduction applies.

C. If may pay to cemetery association or police or fire benevolent association – No income tax charitable deduction, but deferral of income will apply, and the self dealing rule should not apply.

#3 - Lifetime Charitable Remainder Trust Example

Using a charitable remainder trust for couples who have charitable intentions.

Many couples of modest means (a net worth that is not exposed to the estate tax because of the $5,000,000 exemptions) intend to leave a charitable bequest at the death of the surviving spouse.

<u>Example:</u>

Mr. And Mrs. Senior, ages 75 and 74, have $6,000,000 of investment assets generating a 5% rate of return, $300,000 annually used to fund their living expenses and pay their income taxes.

Because they need all $300,000 and do not want to invade principal, they have a charitable bequest in their wills of $1,000,000.

No charitable income tax deduction for bequests.

Can Mr. and Mrs. Senior retain the income from $1,000,000 for their lives and also receive an immediate charitable income tax deduction?

They create a CRUT with a $1,000,000 income-producing asset, retaining a 5% unitrust interest for their joint lives, payable annually. Assume the $1,000,000 asset generates $50,000 of annual income.

Retaining a 5% unitrust interest for their joint lives generates an immediate $480,330 income tax charitable deduction they can use in the year the trust is created, and they can carry forward any excess over the next 5 taxable years if the charity is a public charity and/or private operating foundation, but not a private non-operating foundation.

CHARITABLE REMAINDER TRUST CREATIVE PLANNING CHECKLIST

1. **Defer Gain on the Sale of Appreciated or Certain Depreciated Assets.**

Consider a CRUT when appreciated assets will be sold in order to defer and to some extent avoid capital gains taxes.

Transfer the assets to the CRUT before there is a binding obligation or solidly negotiate understanding as to the sale to facilitate deferral of income tax, and receive an income tax deduction for a portion of the value of what is being sold. This can work on certain kinds of inventory, such as crops, and depreciated assets that are not ordinary income assets. Special obstacles with business interest. UBTI - rent not UBTI.

This can be coupled with Estate Tax reduction, and a SLAT/Dynasty Trust Installment Sale, as mentioned below.

2. **The Flip NIM-CRUT**.

Consider using a Flip NIM-CRUT with Subsidiary Entity Ownership to defer payments and facilitate control over the timing of income until the Trust "Flips" to become a straight payment Uni-Trust.

CHARITABLE REMAINDER TRUST CREATIVE PLANNING CHECKLIST

3. **An Even Better Flip NIM-CRUT–Avoid the Self Dealing Rules**.

A SLAT or Dynasty Trust that has the authority to form and fund a Charitable Remainder Trust may do so with the remainder interest charity being defined to possibly include a Cemetery Association or Police or Fireman Benevolent Society. The CRT transfer will not be considered to be a gift for gift tax purposes and the remainder interest will not qualify for an income tax deduction.

In such event, Internal Revenue Code Section ___ indicates that the Self-dealing rules, will not apply, so it should be possible for family members and entities to borrow money from the CRUT at market rates, and to pay deductible interest to the CRUT. The interest income will be recognized until it is distributed out to the individual Unitrust beneficiaries. Please note that the IRS will no longer rule on such arrangements, but it is in the Internal Revenue Code.

Note - Be sure to draft irrevocable trusts to allow for all of the techniques discussed here. Many trusts cannot have their assets used for charity.

4. **Increase Valuation Discounts by Gifting or Selling Annuity or UniTrust Interests or Companies That Own Such Interests.**

First establish the CRUT or CRAT and then value the payment rights. Gift or sell the payment rights to a Grantor Trust in exchange for a promissory note.

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CHARITABLE REMAINDER TRUST CREATIVE PLANNING CHECKLIST

5. **Convert a C Corporation to an S Corporation and Avoid the Unrecognized Built In Gains Tax (IRC Section 1274.**

An S Corporation that may have unrecognized built-in gains from having converted from being a C Corporation may transfer appreciated assets to a Charitable Remainder Trust that then sells them. This needs to be a transfer of less than "substantially all" of the S Corporation assets in order to not trigger gain on the transfer.

6. **Stretch IRA's To 20 Years or a Lifetime.**

Make a 20 year or lifetime Charitable Remainder Trust the beneficiary or contingent beneficiary of one or more IRA accounts. The IRA account assets can empty into the Charitable Remainder Trust without causing income tax until the Trust makes distributions. The Trust can begin to earn capital gains and qualify dividends that would be paid out after the ordinary income has been used to reduce overall taxation and to simplify/eliminate the need to comply with IRA rules.

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CHARITABLE REMAINDER TRUST CREATIVE PLANNING CHECKLIST

7. **A Married Couple Can Share a $100,000 Minimum Distribution Funded CRT.**

One time only a married couple can together direct/donate $105,000 ($52,500 each--indexed for inflation) from their IRA Required Minimum Distributions to a CRT to stretch income tax on the payment over a long period of time. This may be a very nice icebreaker for a Charity that may receive more gifts in the same manner from the married couple. The limit for a single person is $52,5000 (and growing). CHECK — Assets in a self directed IRA may grow in value considerably after the donation so there is really much more deferral than on $105,000---Hint--use low side valuations from self directed IRA's to maximize the benefit of 20 more or more years of deferral and getting key assets out of self directed IRAs. (Research to see if this is all correct).

8. **IRA Disclaimer Choice Structure.**

IRA's and pension accounts and also income laden variable annuity contracts can be made payable directly to individuals and/or a Trust or Trusts for individuals, while giving the individual or Trustee the ability to disclaim the IRA in whole or in part into a Charitable Remainder Uni-Trust within 180 days of the death of the IRA holder. A fractional disclaimer could be used to cause some of the IRA to continue under the IRA rules or to be withdrawn with income tax paid, with the remainder of the IRA assets funding the Charitable Remainder Trust and subsequent payments.

CHARITABLE REMAINDER TRUST CREATIVE PLANNING CHECKLIST

9**. May Large IRA and Pension Accounts Payable to A Standby CRUT with Blocker LLC for Funding on Death Can Be Used For This.**

Maintain a dedicated Revocable Trust that will become a Flip NIMCRUT on the death of the grantor.

Have this Revocable Trust own an LLC.

Have the LLC be the beneficiary of the IRA. The income recognized by the LLC may not be considered to be Fiduciary Accounting Income of the Flip NIMCRUT until dollars or assets are actually transferred from the LLC to the Flip NIMCRUT. A 20 year Flip NIMCRUT could have 19 years of postponed income.

This not only defers the income but also causes there to be less ordinary income. For example if $1 million is in the IRA on death then all growth thereon during a 10 year term would cause ordinary income if payable to a person or trust. If payable to the CRUT there is $1 million of deferred ordinary income and the rest of the income deferred for up to 20 years or longer can include capital gains and lower taxed qualified dividend and perhaps tax free municipal bond income.

CHARITABLE REMAINDER TRUST CREATIVE PLANNING CHECKLIST

10. **Spray Deferred Income to Lower Bracket Beneficiaries or Charities**.

When forming a Charitable Remainder Unitrust or Annuity Trust draft to allow allow an independent Trustee to spray/distribute the payments as between one or more individuals, including individuals who may be in lower tax brackets.

The value of the interests that are not required to be paid to the Grantor or charity will be a gift for gift tax purposes, but for many clients use of a large part of their Estate and Gift Tax Exemption is not a problem, or have such a CRUT funded by a Grantor Trust that is outside of the estate taxable estate of the Grantor.

If the 50% of adjusted gross income or 30% of adjusted gross income thresholds are an issue, donation of Uni-Trust interests that would carry income to the taxpayer may work well as supposed to donating other assets.

11. **Consider Receiving Trustee Fees From CRUT to Reduce What Charity Receives**.

Consider allowing the client and/or one or more family members to serve as a Trustee or Co-Trustee of the CRT in order to maximize the return provided to the family, even though these will be an after tax dollars, if the client wants to maximize what the family receives.

The Trustee fees will be reduce the income tax to be paid upon final distribution from the Charitable Remainder Trust but also the remainder going to charity will be reduced. The income received by the Trustee will be taxable and may be deferred as to payment. The right to receive Trustee fees may help to show that the family will have a tangible financial benefit from being able to control the trust during the payment term.

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CHARITABLE REMAINDER TRUST CREATIVE PLANNING CHECKLIST

12**. Put a Value The Benefits That a Person or Family Will Derive From Having Control Over the Charitable Remainder Entity. Keep Job Availability for Family and Friends and Family and Business Goodwill Enhancement in Mind**

Ask the family if it is worth perhaps 5% of the day one value of the entity to have a remainder interest charity that will benefit the community.. The ability to pay for services, and goodwill in the community adds more value for the family in the equation. Consider what percentage of the value of the family charity disposition at the end of the term might be. Businesses and professional practices may increase sales by having community goodwill.

13. **Spray Power to Charity**.

The Utility of a Charitable Spray Power. Let clients know that they may choose to donate their payment rights to charity to receive (1) a tax deduction for the value of the payment right donated and (2) avoidance of income tax on the income that will be carried out with the applicable payment right. If the CRT is paying out ordinary income, this will be the equivalent of making a qualified charitable distribution from an IRA?

CHARITABLE REMAINDER TRUST CREATIVE PLANNING CHECKLIST

14. **Game the Life Expectancy Tables**.

If the 50% of adjusted gross income or 30% of adjusted gross income thresholds are an issue, donation of Uni-Trust interests that would carry income to the taxpayer may work well as supposed to donating other assets.

If a client has a long life expectancy, then using a lifetime payout may be advantageous because the calculation of the value of the remainder interest will assume that the person will die at the normal life expectancy for someone his or her age under the 2010 tables.

On the other hand, if the investments held under the CRT will grow at faster than the §7520 rate that applies upon inception then the remainder interest may nevertheless be undervalued.

15. **Get a Donation for the Tree and Keep the Fruit for a Few Years or Life**. Use a Charitable Remainder Unitrust to allow a client to receive rent or other income from a donated asset for a term of years, such as intel retirement, to generate an income tax deduction now, and lock in the right of the charitable remainder interest holder to receive the remainder value. An example would be a six year Charitable Remainder Annuity Trust to own rental property when the donor plans to retire in five or six years and would prefer to have the tax deduction now.

CHARITABLE REMAINDER TRUST CREATIVE PLANNING CHECKLIST

16. **Avoid paying annual distributions from a Private Foundation By Using a Short Term NIMCRUT that pays to charity after a short term of years**. If a client would like to make a contribution to a private foundation or a private operating foundation but not have to make distributions in the first one, two or three years then a Flip NIMCRUT that receives the contribution and will pay a Uni-Trust or Annuity Trust payment eventually and surely before the distribution of remaining assets to a private foundation or a private operating foundation may be an appropriate fit.

17. **Asset Protection and Divorce Protection**. Creditors and spouses can generally not reach what is locked in for charity, even thought family jobs may arise at a result thereof, and in some states annuity payment rights are exempt from creditor claims.

18. **Slow Down or Regulate Spending-Avoid Undue Enfluence.** .

Many elderly clients never want to "spend their principal" and end up living on 3 or 4% of the value of their portfolio.

A CRT that pays 5% or more may be acceptable, with much less concern about running out of assets when the remainder will not be held for the family.

A beneficiary who may be subject to undue influence will not be able to transfer more than his or her annual payment rights if there is a Trustee who complies with the CRT rules.

CHARITABLE REMAINDER TRUST CREATIVE PLANNING CHECKLIST

19. **A Training Wheels Gift for Young or Financially Inexperienced Adults**.

When wanting to benefit young adults (of all ages) and a charity, and when there is concern about whether they would spend all of what is gifted, consider a long term CRAT or CRUT that will allow the person to manage and take payments under the assistant of a specified Charity or advisor. This gives the donor the satisfaction of giving, security as to knowing payments will come out over time, and recognition and participation by a charity that may help solidify the relationship between the charity and the Trustee/Income Beneficiary.

20. **"I Will Keep the Rent From This Property for X Years and Then Give the Rest to Charity"**.

Commit now by donating the rental property to a CRAT or CRUT and receive back a term of years payment until retirement age or beyond. With a CRUT money can be contributed if the net rent income is not sufficient to fund the required payments.

CHARITABLE REMAINDER TRUST CREATIVE PLANNING CHECKLIST

21. **Form Both a CRUT and a CRAT**.

When retirement planning is considered, a fixed payment CRAT can help assure that the Donor will receive a fixed amount of payment until the term ends or the Trust assets run out, while a CRUT can help assure that growth in value and inflation result in payments that may grow in value as compared to what a CRAT would pay. A CRAT with 60% bonds and 40% equities and a CRUT with 40% bonds and 60% equities may work best.

22. **Certain Long Term Mortgages May Be "Assumed' by a CRT.**

Add for this. If the debt on property is thereon is non recourse as to the donor and more than ___ years old if certain other requirements are met.

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Miscellaneous Issues Not Covered In This Presentation

A. New tier for ordinary income that qualifies for the Section 199A deduction and new Treasury Regulations and example provided.

B. Unlike other charitable entities, a CRT is subject to a 100% tax on Unrelated Business Taxable Income which can occur then CRT operates a business, borrowed to purchase investment assets, has a partnership interest in a partnership that holds certain leveraged property. There is an exception for a partnership holding property that has been mortgaged at least 5 years before contribution. Section 514(c)(2)(A).

C. No self dealing is permitted under a CRT, except for reasonable compensation, or if there is no charitable deduction upon formation and funding.

D. Will not work for ordinary income items donated, like art created by the donor, Section 1245 property, inventory.

E. Will probably not work for physical items, like collectibles?

F. Feinstein Trust case situation where Pennsylvania Attorney General attached a trustee for investing in municipal bonds. Not per se wrong, but will be subject to scrutiny. Assignment of income issue when there is a preexisting understanding to sell assets and buy bonds.

Miscellaneous Issues Not Covered In This Presentation

G. If Grantor is the Trustee, cannot "spray income" among multiple beneficiaries. Do not allow any "defective grantor trust" powers.

H. Do not transfer mortgaged property to the trust if the grantor is liable on the mortgage.

I. Any life used for a lifetime payment must be the life of the beneficiary. Cannot add beneficiaries who were not alive when the trust started if a lifetime payment is selected–eg later born or adopted individuals cannot benefit.

J. Payments must be outright unless the person is incapacitated or otherwise meets standards for need of a spendthrift trust. Revenue Ruling 2002-20 and the definition of "financially disabled" under IRC Section 6511(h)(2)(A).

K. The remainder charity must be a "50% charity" and any replacement that the Grantor or Trustee must be required to be a "50% charity" in order to qualify for the 50% charity deductions. If may be changed to a private non operating foundation then the deduction rules applicable to gifts to private non operating foundations will apply.

L. The 3.8% NIT tax is not imposed on the CRUT, but will be imposed on beneficiaries who receive lifetime payments if they are over the $200,000 if single, $250,000 if married threshold. Where the donor has saved 3.8% and the term of year or lifetime payee need not pay this, this is an additional benefit.


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EZ Learning Tool for Charitable Tax Law

Slide 1 of 6 – Deduction for Donation

Private (Non-Operating) Foundation	Private Operating Foundation	Public Charity	CRUT (Charitable Remainder Unitrust) or CRAT (Charitable Remainder Trust)	Grantor CLAT (Disregarded During Life of Grantor)	Non-Grantor CLAT (Treated as Complex Trust for Charitable Payment Term)
Can be funded or controlled by one person or family. Charitable deduction limited to lower of basis or FMV of donated assets other than publicly traded securities. Donor can deduct only up to 20% of AGI for contributions of securities—and then carry forward up to 5 years. Subject to 1.39% annual excise tax on net income. Must generally distribute/spend 5% of net market value annually.	**Same as Private Non-Operating Foundation**, but must "operate" a charitable activity or venture. Charitable deduction rules are the same as Public Charity—Up to 30% AGI for FMV of appreciated capital gain assets (not accelerated depreciation or dealer property gain). Up to 20% AGI for non-appreciated assets and up to 60% for cash. Must generally spend or distribute 4.25% of net market value each 3 of 4 years.	May qualify by being a physical school, medical facility ("hospital"), medical research organization, house of worship, or satisfying Over 33% Test or Over 66% Test. No minimum distribution requirements. No self-dealing prohibitions. Same donation deductibility rights as Private Operating Foundation contributions.	A simple CRUT or CRAT makes annual payments to one or more individuals, with remainder to charity. Remainder interest must be worth at least 10%, and normally the contributor will receive a tax deduction based thereon. Can contribute appreciated assets and defer income tax on sale by CRT and income thereon until payments are received. Charitable deduction for value of charitable remainder interest.	Considered as owned by Grantor for income tax purposes. Therefore, not subject to self-dealing and other rules. Grantor gets income tax deduction for contribution and pays income tax on net income during charitable term. Remainder passes estate and gift tax-free to family members or comes back to the Grantor.	Taxed as an irrevocable "complex" trust. No income tax deduction for contribution. Grantor not taxable on income.


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EZ Learning Tool for Charitable Tax Law, Cont’d (UBTI)

Slide 2 of 6 – Unrelated Business Taxable Income from Rent Based Upon Percentage of Profit or Dealer Sale Income Treatment and More than Incidental Leasing of Personal - Non-Real Estate - Assets and Income from Businesses Not Related to the Charitable Purpose of the Organization - (Assume there is no debt on property, or that debt qualifies under 10 year exception).
Taxation of Ownership of Real Estate – 100% Ownership or Ownership as Tenants-In-Common (“TIC”) – Not Taxed as Partnership

Private (Non-Operating) Foundation		Private Operating Foundation	Public Charity	CRUT (Charitable Remainder Unitrust) or CRAT (Charitable Remainder Trust)		Grantor CLAT (Disregarded During Life of Grantor)		Non-Grantor CLAT (Treated as Complex Trust for Charitable Payment Term)
No tax or UBTI on passive net rent income or non-dealer CAP gains. Debt on property can cause rent or CAP gains to be taxable.	Active business income, sale of property as dealer, or income on property subject to certain debt results in UBTI.	**Same as Private Non-Operating Foundation.**	**Same as Private Operating Foundation, which is the same as the Private Non-Operating Foundation.**	**Inactive:** Net rent not taxable. Debt on property can cause rent to be taxable.	**Active Rent or Dealer Income:** 100% excise tax.	Grantor pays tax on rent income minus depreciation deduction.	Grantor pays tax as if Grantor was the dealer or active landlord.	Taxed as an irrevocable trust - can probably deduct annual payments to charity under Section 642(c).

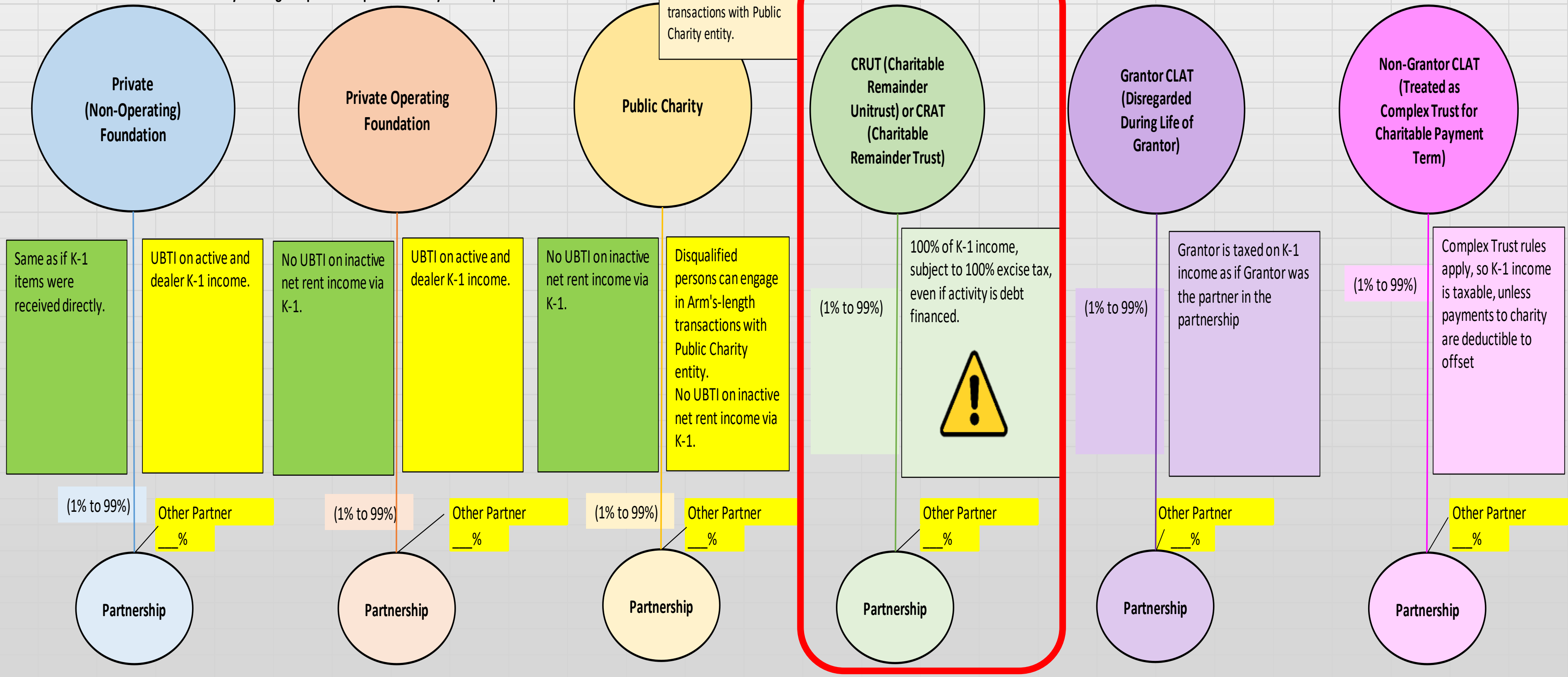
** Note - UBTI is taxed at corporate or trust rate, depending upon whether Foundation is a corporation or a Trust.
- Too much UBTI can cause loss of 501(c)(3) status.
- Entity may make distributions to other charities and receive deduction against UBTI subject to 10% limitation for charitable corporations and more complicated higher limitation for charitable trusts.
- **Place taxable activity under C corporations to avoid UBTI – Will be taxed at C corporation level.**
- No tax on receipt of dividends or other distributions from a C corporation.

EZ Learning Tool for Charitable Tax Law, Cont'd

Slide 3 of 6 – Ownership of Partnership Interests

UBTI Tax is based on K-1 reporting (not cash received).

Charitable activities with the charity owning the partnership interest may be exempt.



Consider transferring partnership interests into C corporation owned by charity - This may trigger income tax if debt of partnership exceeds basis of partnership assets.

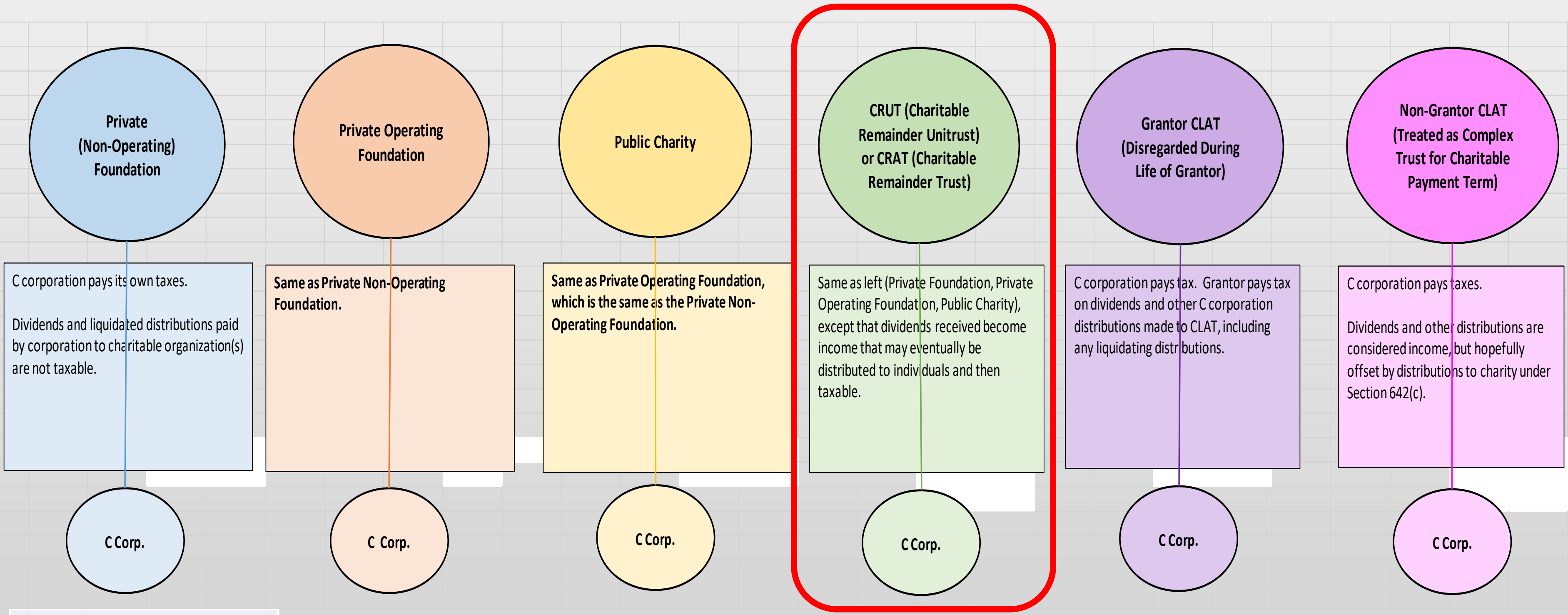
EZ Learning Tool for Charitable Tax Law, Cont'd

Slide 4 of 6 – Ownership of S Corporation Interests

Private (Non-Operating) Foundation	Private Operating Foundation	Public Charity	CRUT (Charitable Remainder Unitrust) or CRAT (Charitable Remainder Trust)	Grantor CLAT (Disregarded During Life of Grantor)	Non-Grantor CLAT (Treated as Complex Trust for Charitable Payment Term)
All S corporation K-1 income is taxable as UBTI, regardless of its nature. Even the sale or redemption of an S corporation interest will yield UBTI to the extent that amounts received exceed basis.	All S corporation K-1 income is taxable as UBTI, regardless of its nature. Even the sale or redemption of an S corporation interest will yield UBTI to the extent that amounts received exceed basis.	All S corporation K-1 income is taxable as UBTI, regardless of its nature. Even the sale or redemption of an S corporation interest will yield UBTI to the extent that amounts received exceed basis.	STOP Selection will be lost—CRUTs and CRATs are not permitted to be S corporation owners. Note: S-Corporation may donate assets to CRT-but beware IRC 351 80% rule.	Can own S corporation stock during Grantor's life if one Grantor—make ESBT election as belt and suspenders	Complex trust rules apply, so net rent income is taxable, unless payments to charity are deductible to offset. **ESBT Rules**
S Corp.	S Corp.	S Corp.	S Corp.	S Corp.	S Corp.

EZ Learning Tool for Charitable Tax Law, Cont'd

Slide 5 of 6 – Ownership of C Corporation Interests – Use as a blocker – C corporation dividends are not UBTI



Excess Business Holding Rule

Self-Dealing issue

EZ Learning Tool for Charitable Tax Law, Cont’d

Slide 6 of 6 – Self-Dealing and Excess Business Holding Rules

Private (Non-Operating) Foundation	Private Operating Foundation	Public Charity	CRUT (Charitable Remainder Unitrust) or CRAT (Charitable Remainder Trust)	Grantor CLAT (Disregarded During Life of Grantor)	Non-Grantor CLAT (Treated as Complex Trust for Charitable Payment Term)
Self-Dealing Rules Apply Excess Business Holding Rules Apply	Self-Dealing Rules Apply Excess Business Holding Rules Apply	Self-Dealing Rules Do Not Apply Excess Business Holding Rules Do Not Apply	Self-Dealing Rules Apply, Unless no income or gift tax deduction is permitted under the tax law (formed by Dynasty Trust with Cemetery Associations or Police Benevolent Associations as potential charitable beneficiaries). **Excess Business Holding Rules Apply but Many Charitable Remainder Trusts Are Excluded by §4947(b)(3)**	Self-Dealing Rules Apply Excess Business Holding Rules Apply	Self-Dealing Rules Apply Excess Business Holding Rules Apply
Avoid Excess Business Holding Rules by having no more than 20% ownership of voting interests.	Avoid Excess Business Holding Rules by having no more than 20% ownership of voting interests.	Avoid Excess Business Holding Rules by having no more than 20% ownership of voting interests.			

TOPIC #2:

PROVIDING INCOME TO THE CHILDREN USING CHARITABLE REMAINDER TRUSTS

The Self-Policing Charitable Remainder Trust

Oftentimes a parent would like to provide a large gift for a child, in order to assure that the child has a sense of security, and asset or assets to manage, and limitations on what can be done and amounts that can be withdrawn therefrom.

While giving a gift with such strings attached may seem somewhat awkward and domineering, it can be in the best interests of the child and the child's descendants, especially if there are good reasons for the limitations so that the child does not feel that rules and regulations on investing and spending are based upon a lack of confidence or trust for the child and those who may influence the child.

Parents may also wish to provide a benefit for charity, and to have the child feel and effectuate a duty to charity, and also possibly a relationship with a particular charitable organization.

The Charitable Remainder Uni-Trust can be the best arrangement to achieve the above objectives, although the CRAT can also accomplish these objectives.

For example, a mother and father may wish to give $100,000 to each of their children, with the expectation that the children will manage the investments prudently and withdraw 7% of the value of trust assets each year for whatever purposes the child likes.

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The Self-Policing Charitable Remainder Trust, Cont'd

Such an arrangement could go on for the life of the child, with the remainder of the assets left in the trust to go to charity, instead of the child's spouse or other family members.

A simple Charitable Remainder Uni-Trust can be established to facilitate this.

Now the Internal Revenue Service, the Attorney General of the state where the Trustee resides, and a particular charity or charities are the "bad guys" that the child would need to answer to, if proper rules are not followed.

The Settlor or child may have the right to change the charity.

The Settlor can retain the right to change the Trustee, or to appoint a successor Trustee, if the child cannot serve.

The Grantor can retain the right to revoke or terminate the interests of the non charitable beneficiaries by will upon death. This will make the trust an incomplete gift so that a gift tax return need not be filed if the Unitrust or annuity interest is given to someone other than the grantor or the grantor's spouse. Unitrust or annuity interest to spouse will qualify for marital deduction.

CHARITABLE REMAINDER TRUST DISTRIBUTION PERCENTAGES ASSUMES $100,000 CONTRIBUTION TO CHARITABLE REMAINDER TRUSTS

	A	B	C	D	E	F
1	Child as the Measuring Life	Maximum Unitrust % Allowed for Lifetime Payout	Charitable Deduction Assuming Maximum Unitrust Distribution	Chartiable Deduction for 6.92% Uni-trust	Unitrust Percentage of Use 20-Year Term Payout	Charitable Deduction Assuming 20-Year Term Payout
2	George Jones – 55	11.84%	$10,000	$21,669	10.87%	$10,000
3	James Jones – 50	9.64%	$10,000	$16,872	10.87%	$10,000
4	Peggy Jones – 45	8.089%	$10,000	$15,238	10.87%	$10,000
5	Kathy Jones - 40	6.92%	$10,000	$10,000	10.87%	$10,000
6	Alan Jones – 35	6.018%	$10,000		10.875%	

1. The unitrust in Column B is the maximum % so that the present value of the remainder interest is 10%.
2. If one desires a % lower than the maximum unitrust %, then the present value of the charitable remainder interest increases as shown in Column D.
3. Columns E and F show that for a fixed term, the maximum % is based on the present value at the end of the fixed term. If one does not want to risk the measuring life dying early, a fixed term can be used.

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CRUT DISTRIBUTION PERCENTAGES

The below charts show the maximum amount a CRUT could payout to the non-charitable beneficiary while still qualifying based upon the individual's age, how many lives the payout is based on, and the June 2020 7520 Rates.

Length	Percentage
20 year term of years	10.87%
30-year-old's life	5.31%
40-year-old's life	6.92%
50-year-old's life	9.64%
60-year-old's life	14.90%
70-year-old's life	25.27%
65-year-old's life	19.099%

ON THE LIFE OF THREE PEOPLE	
Three 30-year-old individuals	Cannot distribute at least 5% Not qualify.
Three 40-year-old individuals	Cannot distribute at least 5% Not qualify.
Three 50-year-old individuals	5.92%
Three 60-year-old individuals	7.91%

ON THE LIFE OF TWO PEOPLE	
Two 30-year-old individuals	Cannot distribute at least 5% Not qualify.
Two 40-year-old individuals	5.13%
Two 50-year-old individuals	6.60%
Two 60-year-old individuals	9.1%

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CRUT ILLUSTRATION- $1,000,000 CONTRIBUTION

Analysis of Hypothetical Charitable Remainder Trust
(20 Year Term - 8% Growth)

1	3	4	5	6	7	8	9	10	11
Year	CRUT Ending Balance (Assumes 8% Growth)	Distribution to Family (10.8% of Account Balance)	Taxes on Distribution	Net Distribution to Family	Charitable Tax Deduction Benefit	Cummulative Net Distributions to Family	Total Value Family Receives (Includes Tax Deduction Benefit)	Total Amount Charity Receives at End of Twenty Year Term	Total Amount Family Receives if CRUT Distributions are Reinvested at 6%
1	$ 972,000	$ 108,000	$ (27,404)	$ 80,596	$ 40,800	$ 80,596	$ 121,396	$ -	$ 80,596
2	$ 944,784	$ 104,976	$ (26,637)	$ 78,339	$ -	$ 158,935	$ 199,735	$ -	$ 162,917
3	$ 918,330	$ 102,037	$ (25,891)	$ 76,146	$ -	$ 235,081	$ 275,881	$ -	$ 247,111
4	$ 892,617	$ 99,180	$ (25,166)	$ 74,014	$ -	$ 309,095	$ 349,895	$ -	$ 333,332
5	$ 867,624	$ 96,403	$ (24,461)	$ 71,941	$ -	$ 381,036	$ 421,836	$ -	$ 421,740
6	$ 843,330	$ 93,703	$ (23,776)	$ 69,927	$ -	$ 450,963	$ 491,763	$ -	$ 512,500
7	$ 819,717	$ 91,080	$ (23,111)	$ 67,969	$ -	$ 518,932	$ 559,732	$ -	$ 605,787
8	$ 796,765	$ 88,529	$ (22,464)	$ 66,066	$ -	$ 584,998	$ 625,798	$ -	$ 701,779
9	$ 774,455	$ 86,051	$ (21,835)	$ 64,216	$ -	$ 649,214	$ 690,014	$ -	$ 800,663
10	$ 752,771	$ 83,641	$ (5,681)	$ 77,960	$ -	$ 727,174	$ 767,974	$ -	$ 918,176
11	$ 731,693	$ 81,299	$ (3,071)	$ 78,228	$ -	$ 805,402	$ 846,202	$ -	$ 1,041,761
12	$ 711,206	$ 79,023	$ (2,985)	$ 76,038	$ -	$ 881,440	$ 922,240	$ -	$ 1,169,262
13	$ 691,292	$ 76,810	$ (15,495)	$ 61,315	$ -	$ 942,754	$ 983,554	$ -	$ 1,288,338
14	$ 671,936	$ 74,660	$ (18,944)	$ 55,715	$ -	$ 998,470	$ 1,039,270	$ -	$ 1,407,697
15	$ 653,121	$ 72,569	$ (18,414)	$ 54,155	$ -	$ 1,052,625	$ 1,093,425	$ -	$ 1,531,393
16	$ 634,834	$ 70,537	$ (17,898)	$ 52,639	$ -	$ 1,105,264	$ 1,146,064	$ -	$ 1,659,683
17	$ 617,059	$ 68,562	$ (17,397)	$ 51,165	$ -	$ 1,156,429	$ 1,197,229	$ -	$ 1,792,836
18	$ 599,781	$ 66,642	$ (16,910)	$ 49,732	$ -	$ 1,206,162	$ 1,246,962	$ -	$ 1,931,135
19	$ 582,987	$ 64,776	$ (16,436)	$ 48,340	$ -	$ 1,254,502	$ 1,295,302	$ -	$ 2,074,873
20	$ 566,664	$ 62,963	$ (15,976)	$ 46,986	$ -	$ 1,301,488	$ 1,342,288	$ 566,664	$ 2,224,358

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CRUT

No Planning - Investment of Net Sales Proceeds in Hypothetical Investment Account and Receive Distribution Each Year					
11	12	13	14	15	16
Balance of Hypothetical Investment Account (Assumes 8% Growth)	Distribution (Distribution Net of Taxes Equals After Tax CRUT Payment each year)	Taxes (1.00% of Assets)	Ending Balance of Hypothetical Investment Account	Cummulative Net Distributions	Total Amount Received by Family (Net account + Cummulative Net Distributions)
$ 809,600	$ 89,340	$ (8,744)	$ 776,285	$ 89,340	$ 865,624
$ 776,285	$ 86,723	$ (8,384)	$ 743,280	$ 176,063	$ 919,343
$ 743,280	$ 84,173	$ (8,027)	$ 710,542	$ 260,236	$ 970,778
$ 710,542	$ 81,688	$ (7,674)	$ 678,024	$ 341,924	$ 1,019,948
$ 678,024	$ 79,264	$ (7,323)	$ 645,679	$ 421,188	$ 1,066,867
$ 645,679	$ 76,900	$ (6,973)	$ 613,460	$ 498,088	$ 1,111,548
$ 613,460	$ 74,594	$ (6,625)	$ 581,317	$ 572,682	$ 1,153,999
$ 581,317	$ 72,344	$ (6,278)	$ 549,200	$ 645,027	$ 1,194,227
$ 549,200	$ 70,147	$ (5,931)	$ 517,057	$ 715,174	$ 1,232,231
$ 517,057	$ 83,544	$ (5,584)	$ 469,293	$ 798,718	$ 1,268,012
$ 469,293	$ 83,296	$ (5,068)	$ 418,472	$ 882,015	$ 1,300,487
$ 418,472	$ 80,557	$ (4,519)	$ 366,873	$ 962,572	$ 1,329,445
$ 366,873	$ 65,277	$ (3,962)	$ 326,984	$ 1,027,849	$ 1,354,833
$ 326,984	$ 59,247	$ (3,531)	$ 290,365	$ 1,087,095	$ 1,377,460
$ 290,365	$ 57,291	$ (3,136)	$ 253,167	$ 1,144,387	$ 1,397,553
$ 253,167	$ 55,373	$ (2,734)	$ 215,312	$ 1,199,760	$ 1,415,072
$ 215,312	$ 53,490	$ (2,325)	$ 176,722	$ 1,253,250	$ 1,429,972
$ 176,722	$ 51,641	$ (1,909)	$ 137,310	$ 1,304,891	$ 1,442,201
$ 137,310	$ 49,823	$ (1,483)	$ 96,989	$ 1,354,714	$ 1,451,703
$ 96,989	$ 48,034	$ (1,047)	$ 55,666	$ 1,402,748	$ 1,458,414

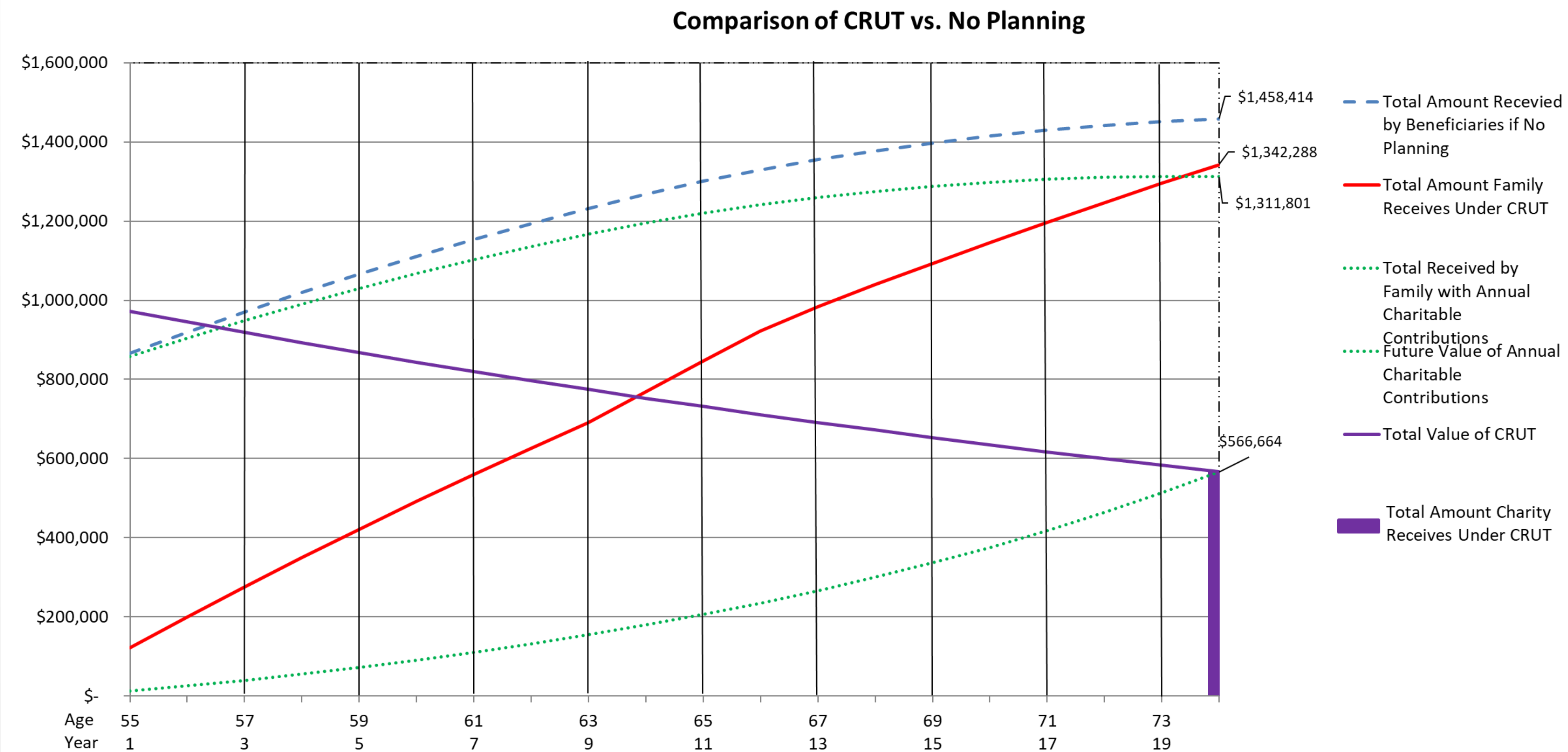
CRUT

Investment of Net Sales Proceeds in Hypothetical Investment Account and Receive Distributions Each Year Plus Make Charitable Contributions of Equal Present Value						
17	18	19	20	21	22	23
Year	Distribution Received By Family	Payment to Charity	Charitable Deduction Benefit	Cummulative Net Distributions Received by Family	Future Value of Distributions to Charity (Assumes 8% Growth Rate)	Total Benefit Received by Family (Net account + Cummulative Net Distributions - Charity Payment + Value of Charitable Deduction)
1	$ 76,957	$ (12,383)	$ 5,052	$ 76,957	$ 12,383	$ 858,294
2	$ 74,340	$ (12,383)	$ 5,052	$ 151,297	$ 25,756	$ 904,682
3	$ 71,790	$ (12,383)	$ 5,052	$ 223,088	$ 40,200	$ 948,786
4	$ 69,305	$ (12,383)	$ 5,052	$ 292,392	$ 55,799	$ 990,625
5	$ 66,881	$ (12,383)	$ 5,052	$ 359,273	$ 72,645	$ 1,030,214
6	$ 64,517	$ (12,383)	$ 5,052	$ 423,791	$ 90,840	$ 1,067,564
7	$ 62,212	$ (12,383)	$ 5,052	$ 486,002	$ 110,490	$ 1,102,685
8	$ 59,961	$ (12,383)	$ 5,052	$ 545,964	$ 131,712	$ 1,135,581
9	$ 57,765	$ (12,383)	$ 5,052	$ 603,728	$ 154,632	$ 1,166,255
10	$ 71,161	$ (12,383)	$ 5,052	$ 674,890	$ 179,385	$ 1,194,705
11	$ 70,913	$ (12,383)	$ 5,052	$ 745,803	$ 206,119	$ 1,219,850
12	$ 68,174	$ (12,383)	$ 5,052	$ 813,977	$ 234,991	$ 1,241,477
13	$ 52,894	$ (12,383)	$ 5,052	$ 866,871	$ 266,173	$ 1,259,534
14	$ 46,864	$ (12,383)	$ 5,052	$ 913,735	$ 299,850	$ 1,274,831
15	$ 44,908	$ (12,383)	$ 5,052	$ 958,644	$ 336,221	$ 1,287,593
16	$ 42,990	$ (12,383)	$ 5,052	$ 1,001,634	$ 375,501	$ 1,297,782
17	$ 41,108	$ (12,383)	$ 5,052	$ 1,042,742	$ 417,924	$ 1,305,351
18	$ 39,258	$ (12,383)	$ 5,052	$ 1,082,000	$ 463,741	$ 1,310,249
19	$ 37,440	$ (12,383)	$ 5,052	$ 1,119,440	$ 513,223	$ 1,312,421
20	$ 35,651	$ (12,383)	$ 5,052	$ 1,155,091	$ 566,664	$ 1,311,801

CRUT

Summary Columns

24	25	26	27	28	29	30	31
Year	Total Received By Family Under CRUT (Column 9)	Total Received by Family Under Hypothetical Investment Account (Column 16)	Total Received by Family Under Hypothetical Investment Account with Charitable Contributions (Column 23)	Difference in Amount Family Receives if No Charitable Planning (Column 27-26)	Difference in Amount Family Receives if Charitable Distributions Made Each Year (Column 28-26)	Total Amount Charity Receives Under CRUT	Total Tax Savings if CRUT is Used
1	$ 121,396	$ 865,624	$ 858,294	$ 744,228	$ 736,898	$ -	$ 171,740
2	$ 199,735	$ 919,343	$ 904,682	$ 719,608	$ 704,947	$ -	$ 153,487
3	$ 275,881	$ 970,778	$ 948,786	$ 694,897	$ 672,905	$ -	$ 135,623
4	$ 349,895	$ 1,019,948	$ 990,625	$ 670,053	$ 640,730	$ -	$ 118,131
5	$ 421,836	$ 1,066,867	$ 1,030,214	$ 645,031	$ 608,378	$ -	$ 100,993
6	$ 491,763	$ 1,111,548	$ 1,067,564	$ 619,785	$ 575,801	$ -	$ 84,190
7	$ 559,732	$ 1,153,999	$ 1,102,685	$ 594,267	$ 542,953	$ -	$ 67,704
8	$ 625,798	$ 1,194,227	$ 1,135,581	$ 568,428	$ 509,783	$ -	$ 51,519
9	$ 690,014	$ 1,232,231	$ 1,166,255	$ 542,217	$ 476,241	$ -	$ 35,616
10	$ 767,974	$ 1,268,012	$ 1,194,705	$ 500,037	$ 426,731	$ -	$ 35,519
11	$ 846,202	$ 1,300,487	$ 1,219,850	$ 454,284	$ 373,647	$ -	$ 37,516
12	$ 922,240	$ 1,329,445	$ 1,241,477	$ 407,205	$ 319,237	$ -	$ 39,050
13	$ 983,554	$ 1,354,833	$ 1,259,534	$ 371,278	$ 275,980	$ -	$ 27,517
14	$ 1,039,270	$ 1,377,460	$ 1,274,831	$ 338,190	$ 235,561	$ -	$ 12,104
15	$ 1,093,425	$ 1,397,553	$ 1,287,593	$ 304,128	$ 194,168	$ -	$ (3,173)
16	$ 1,146,064	$ 1,415,072	$ 1,297,782	$ 269,008	$ 151,718	$ -	$ (18,337)
17	$ 1,197,229	$ 1,429,972	$ 1,305,351	$ 232,743	$ 108,122	$ -	$ (33,409)
18	$ 1,246,962	$ 1,442,201	$ 1,310,249	$ 195,239	$ 63,288	$ -	$ (48,410)
19	$ 1,295,302	$ 1,451,703	$ 1,312,421	$ 156,401	$ 17,119	$ -	$ (63,364)
20	$ 1,342,288	$ 1,458,414	$ 1,311,801	$ 116,126	$ (30,487)	$ 566,664	$ (78,292)



Comparison of CRUT vs. No Planning
$1,600,000
$1,400,000
$1,200,000
$1,000,000
$800,000
$600,000
$400,000
$200,000
$-
Age 55 57 59 61 63 65 67 69 71 73
Year 1 3 5 7 9 11 13 15 17 19
$1,458,414
$1,342,288
$1,311,801
$566,664
Total Amount Recevied by Beneficiaries if No Planning
Total Amount Family Receives Under CRUT
Total Received by Family with Annual Charitable Contributions
Future Value of Annual Charitable Contributions
Total Value of CRUT
Total Amount Charity Receives Under CRUT

TOPIC #3:

LIFETIME V. TESTAMENTARY CHARITABLE REMAINDER TRUSTS

Topic #4:

Evaluating the Distortions using the §7520 Mortality Tables

#4 - Evaluating the Distortions Caused by Use of the Mortality Tables Required under §7520

<u>The advantage in using a Charitable Remainder Trust for life.</u>

1. Section 7520 uses the 2000 CM mortality tables.
   - The 2000 CM tables are 20 years old.
   - The 2000CM tables use the 2000 Census data.
   - Individuals who create Charitable Remainder Trusts are normally healthier.
   - The tables are unisex and include the portion of the population that smokes. A non-smoking healthy female will have a much longer life expectancy than the general population.

#4 - Evaluating the Distortions Caused by Use of the Mortality Tables Required under §7520

<u>The advantage in using a Charitable Remainder Trust for life.</u>

2. An individual age 70 has a life expectancy of 14.2 years.
   - There is a 50% probability at age 70 that this person will still be living at age 84.
   - Probability using 2000CM that a person age 70 will be living at age 90 is 32.8%.
3. Why the use of mortality tables overstates the present value of the charitable remainder interest?
   - Uses 2000CM life expectancy. So present value of charitable remainder interest calculation assumes that a trust for life will terminate in 14.2 years.
   - If the measuring life lives to age 90, the charity will not receive principal until 20 years.

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#4 - Evaluating the Distortions Caused by Use of the Mortality Tables Required under §7520

Example:

- Present value of right to receive remainder interest in a 5% CRAT funded with $1,000,000, using 0.4% §7520 rate.
  - for 14 years - $313,275.00
  - for 20 years - $40,795.00
  - present value of $50,000 annually for 14 years - $686,725
  - present value of $50,000 annually for 20 years - $959,205

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#4 - Evaluating the Distortions Caused by Use of the Mortality Tables Required under §7520

How is the Value of Charitable Deduction Computed?

Value of trust principal $1,000,000

Less Value of annuity interest <$686,725>

Value of remainder interest $313,275

Note: If §7520 rate is 2.0%, present value of remainder interest is:

- for 14 years - $406,495
- for 20 years - $182,430

#4 - Evaluating the Distortions Caused by Use of the Mortality Tables Required under §7520

Updated Mortality Tables Under §7520.

Under the 1989 Act, Treasury is required to update the mortality tables every 10 years.

- In 1989 used 1980 census data.
- In 1999 used 1990 census data.
- In 2009 used 2000 census data.
- For 2019 Treasury required to update by May 1, 2019.
- The CDC issued 2010 census data on August 7, 2020.
- The IRS has yet to issue updated mortality tables.

Even when the mortality tables incorporate the 2010 census data, this will still be 10 year old data and is based upon the entire US population.

Note: Under 2010 census data, the life expectancy for age 70 is only 16.2 years.

If use the maximum unitrust rate so that value of the charitable remainder interest is limited to 10% of the trust principal, the unitrust percentage for certain ages is:

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#4 - Evaluating the Distortions Caused by Use of the Mortality Tables Required under §7520

Age	2000CM life expectancy	Maximum unitrust rate	Years of life to age 90
50	29.8	9.705%	40
54	26.4	11.407%	36
55	25.5	11.914%	35
60	21.5	14.933%	30
65	17.7	19.214%	25
70	14.2	25.420%	20
75	11.1	34.880%	15
80	8.4	48.170%	10
81	8.1	50%	9

For 81 and later ages The maximum unitrust rate is limited by the Code to 50%

For a fixed 20-year term, 10.919% is the maximum unitrust rate.

Anyone younger than age 54 should use a 20-year term.

Advantage of a fixed term? Eliminates risk of dying early.

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TOPIC #5:

COMPARE THE CRAT TO THE CRUT

#5 – Compare the CRAT to the CRUT

- Unitrusts are not subject to the exhaustion test, which requires that there be at least a 5% chance that all of the assets of the trust will be exhausted by the end of the unitrust payment term?

- Unitrusts allocate risks and benefits of investment performance between the charitable remainder interest and the non-charitable holder of the unitrust interest.

- Annuity trusts shift all investment risks and benefits to charitable remainder interest.

- Unitrusts produce larger charitable income tax and gift tax deductions if the §7520 rate is under 5.0%. If the §7520 rate is more than 5.0%, annuity trusts produce larger charitable deduction.


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Compare a CRAT to a CRUT

Assume an individual age 70 desires to create a CRT, funding the split interest trust with a contribution of an income-producing asset valued at $1,000,000, where both the unitrust percentage and the annuity percentage are 5%. Assume a §7520 rate of 1.8%, the rate for December 2016. The CRT will be for the life of the donor.

The following illustration will assume an investment rate of return of 3%, 5%, and 7%.

These illustrations will demonstrate that any time the §7520 rate is less than 5%, the CRUT is preferred over the CRAT.

The last illustration will show that when the §7520 rate exceeds 5.0%, the CRAT is preferred.

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CRAT

- Senior age 70
- CRAT for life
- §7520 rate 1.8%
- $1,000,000 contributions to the CRAT
- Retained annuity equal to 5% of initial trust principal or $50,000 a year fixed.
- Assume that the trust principal generates an annual rate of return of 5.0%.
- Charitable deduction equal to value of remainder interest:
- Assume Senior, with a 14.2 year life expectancy lives to age 90, so that Senior receives the fixed annuity for the next 20 years.

CRAT

Year	Beginning Principal	5.00% Growth	Payment	Remainder
1	$1,000,000	$50,000.00	$50,000.00	$1,000,000
2	$1,000,000	$50,000.00	$50,000.00	$1,000,000
3	$1,000,000	$50,000.00	$50,000.00	$1,000,000
4	$1,000,000	$50,000.00	$50,000.00	$1,000,000
5	$1,000,000	$50,000.00	$50,000.00	$1,000,000
6	$1,000,000	$50,000.00	$50,000.00	$1,000,000
7	$1,000,000	$50,000.00	$50,000.00	$1,000,000
8	$1,000,000	$50,000.00	$50,000.00	$1,000,000
9	$1,000,000	$50,000.00	$50,000.00	$1,000,000
10	$1,000,000	$50,000.00	$50,000.00	$1,000,000
11	$1,000,000	$50,000.00	$50,000.00	$1,000,000
12	$1,000,000	$50,000.00	$50,000.00	$1,000,000
13	$1,000,000	$50,000.00	$50,000.00	$1,000,000
14	$1,000,000	$50,000.00	$50,000.00	$1,000,000
15	$1,000,000	$50,000.00	$50,000.00	$1,000,000
16	$1,000,000	$50,000.00	$50,000.00	$1,000,000
17	$1,000,000	$50,000.00	$50,000.00	$1,000,000
18	$1,000,000	$50,000.00	$50,000.00	$1,000,000
19	$1,000,000	$50,000.00	$50,000.00	$1,000,000
20	$1,000,000	$50,000.00	$50,000.00	$1,000,000
Summary		$1,000,000	$1,000,000	$1,000,000

CRUT

- Senior age 70
- CRUT for life
- §7520 rate 1.8%
- $1,000,000 contributions in trust
- Retain a 5.0% unitrust interest
- Current charitable income tax deduction $524,590
- Senior, with a 14.2 year life expectancy lives to age 90. So, Senior receives the annual payment for 20 years.
- Assume that trust principal provides an annual 5.0% rate of return.
- The value of the remainder interest is based on the assumption it will vest in 14.2 years. So if Senior lives more than the 14.2 years life expectancy under the 2000CM mortality tables, the remainder interest will be postponed for the number of years Senior lives beyond age 84.2. So, if Senior lives to age 90, the value of the remainder interest is far less than the $524,590 present value which was based on the charity receiving the trust principal in 14.2 years.

CRUT

Year	Beginning Principal	5.0% Income	Distribution	Remainder
1	$1,000,000	$50,000.00	$50,000.00	$1,000,000
2	$1,000,000	$50,000.00	$50,000.00	$1,000,000
3	$1,000,000	$50,000.00	$50,000.00	$1,000,000
4	$1,000,000	$50,000.00	$50,000.00	$1,000,000
5	$1,000,000	$50,000.00	$50,000.00	$1,000,000
6	$1,000,000	$50,000.00	$50,000.00	$1,000,000
7	$1,000,000	$50,000.00	$50,000.00	$1,000,000
8	$1,000,000	$50,000.00	$50,000.00	$1,000,000
9	$1,000,000	$50,000.00	$50,000.00	$1,000,000
10	$1,000,000	$50,000.00	$50,000.00	$1,000,000
11	$1,000,000	$50,000.00	$50,000.00	$1,000,000
12	$1,000,000	$50,000.00	$50,000.00	$1,000,000
13	$1,000,000	$50,000.00	$50,000.00	$1,000,000
14	$1,000,000	$50,000.00	$50,000.00	$1,000,000
15	$1,000,000	$50,000.00	$50,000.00	$1,000,000
16	$1,000,000	$50,000.00	$50,000.00	$1,000,000
17	$1,000,000	$50,000.00	$50,000.00	$1,000,000
18	$1,000,000	$50,000.00	$50,000.00	$1,000,000
19	$1,000,000	$50,000.00	$50,000.00	$1,000,000
20	$1,000,000	$50,000.00	$50,000.00	$1,000,000
Summary		$1,000,000	$1,000,000	$1,000,000

CRAT

- Senior age 70
- CRAT for life
- §7520 rate 1.8%
- $1,000,000 contributions to the CRAT
- Retained annuity equal to 5% of initial trust principal or $50,000 a year fixed.
- Assume that the trust principal generates an annual rate of return of <u>3.0%.</u>
- Charitable deduction: $395,990
- Senior lives to age 90.

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CRAT

Year	Beginning Principal	5.00% Growth	Payment	Remainder
1	$1,000,000	$50,000.00	$50,000.00	$1,000,000
2	$1,000,000	$50,000.00	$50,000.00	$1,000,000
3	$1,000,000	$50,000.00	$50,000.00	$1,000,000
4	$1,000,000	$50,000.00	$50,000.00	$1,000,000
5	$1,000,000	$50,000.00	$50,000.00	$1,000,000
6	$1,000,000	$50,000.00	$50,000.00	$1,000,000
7	$1,000,000	$50,000.00	$50,000.00	$1,000,000
8	$1,000,000	$50,000.00	$50,000.00	$1,000,000
9	$1,000,000	$50,000.00	$50,000.00	$1,000,000
10	$1,000,000	$50,000.00	$50,000.00	$1,000,000
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13	$1,000,000	$50,000.00	$50,000.00	$1,000,000
14	$1,000,000	$50,000.00	$50,000.00	$1,000,000
15	$1,000,000	$50,000.00	$50,000.00	$1,000,000
16	$1,000,000	$50,000.00	$50,000.00	$1,000,000
17	$1,000,000	$50,000.00	$50,000.00	$1,000,000
18	$1,000,000	$50,000.00	$50,000.00	$1,000,000
19	$1,000,000	$50,000.00	$50,000.00	$1,000,000
20	$1,000,000	$50,000.00	$50,000.00	$1,000,000
Summary		$1,000,000	$1,000,000	$1,000,000

What is the Amount of the Charitable Income Tax Deduction?

- For the CRAT the Section 170 charitable income tax deduction is **$395,990.**
- For the CRUT, the same 5% unitrust rate generates a charitable income tax deduction of **$524,590!!!**
- Note: The investment performance has no effect on the charitable deduction, but does impact the amount the charity eventually receives.


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When it is More Advantageous to Create a Unitrust Instead of an Annuity Trust

The charitable remainder unitrust provides a larger immediate income tax charitable deduction than a charitable remainder annuity trust when the Section 7520 rate is less than 5%. If the Section 7520 rate is greater than 5%, the annuity trust will produce a larger charitable income tax deduction than the unitrust.

Assume donor is age 60, contributes $1,000,000 to a CRT, the unitrust rate and the annuity rate are both 5.0% and the CRT is for life.

§7520 Rate	Charitable Deduction CRUT	Charitable Deduction CRAT
1.0%	$379,920	$0
2.0%	$383,140	$163,350
3.0%	$386,360	$253,415
4.0%	$389,450	$328,875
5.0%		
6.0%	$395,820	$446,880
7.0%	$398,910	$493,425
8.0%	$401,920	$533,625

TOPIC #6:

USING THE CHARITY GIFT ANNUITY TO DEFER REPORTING GAIN

#6 – Using the Charitable Gift Annuity

- Using the Charitable Gift Annuity.
  - It is partially the purchase of a lifetime annuity and partially a gift.
  - The financial advantages of a charitable gift annuity instead of a commercial annuity.
  - How the charity can reinsure its risks if an annuitant lives too long.
  - Using the charitable gift annuity to defer the reporting of the gain instead of directly selling the appreciated asset for cash.
    a) For income tax purposes the IRS uses the Reg. §1.72-9 Table V Mortality Tables instead of the §7520 mortality tables (the 2000CM tables).

Please insert from other document on advantages of Gift Annuities

Using the charitable gift annuity to postpone the payment of the income tax on the gain from a sale of an appreciated asset

- ***What is a charitable gift annuity?***
- If Senior, age 70, gives a charity $1,000,000 of cash, the charity promises to pay Senior $58,000 a year for the rest of Senior's life. In addition, Senior is entitled to an immediate charitable income tax deduction of $323,384 that can be used to offset Senior's ordinary income. The value of the annuity Senior received is $676,616. If Senior is a resident of Florida and is in the highest Federal income tax bracket, Senior's effective Federal income tax rate is 40.8% (37% + 3.8% NIIT). Therefore, a $323,384 charitable income tax deduction can immediately save Senior $131,941 of income taxes.

- Using the 2.2% Section 7520 discount rate then in effect, and the 2000CM mortality tables for a person age 70, the present value of $58,000 annually for Senior's life is $676,616.
-
- Our example used 5.8% as the annuity factor for an individual age 70. Earlier this year the Charitable Gift Annuity Association reduced its annuity rates so that for an individual age 70 it is currently 5.1%.

Example: Senior, a Florida resident, age 70, intends to sell an appreciated asset for $10,000,000. Senior's cost basis is $2,000,000. If the asset is sold for cash, Senior will report an $8,000,000 capital gain, taxable at 23.8%, pay $1,904,000 Federal income tax on the capital gain, and net $8,096,000 after taxes. If Senior invests the after-tax amount at 7.16%, Senior's annual income will be $580,000, and all if it will be taxable. If Senior lives in New York City, the combined incomes rate on a capital gain can be as high as 32% and Senior would net less after taxes.

- The § 7520 rate is 2.2%. Senior sells the appreciated asset to a charity for an annual $580,000 annuity for life. Senior receives an immediate $3,233,836 charitable income tax deduction. As a part-sale, part-gift, Senior has sold $6,766,164 of the asset and gifted $3,233,836 of the asset. Basis is allocated between the gift and sale portion under Section 1011(b). See Treas. Reg. Section 1.1011-2 for examples. 67.766174% x $2,000,000 = $1,353,232.60 of basis is allocated to the sale portion for $6,776,164. Therefore, Senior reports a $5,412,932 capital gain at a rate of $349,221 a year over the next 15.5 years on the sale portion.

Each year for the next 15.5 years Senior treats the $580,000 annual payment as:

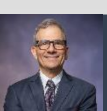
$87,519 tax-free basis

$349,221 capital gain

$143,260 annuity income (ordinary income, *i.e*. interest on the deferred payments).

After 15.5 years, all basis has been used so that all further payments are reported as $580,000 of annuity income

- An annual $580,000 annuity is the practical equivalent of a 7.16% rate of return on the after-tax $8,096,000 Senior would net if she paid the tax on the $8,000,000 capital gain and invested the $8,096,000 after-tax amount. So, Senior is receiving the practical equivalent of a guaranteed 7.16% rate of return. But, for the next 15.5 years, $87,519 of the annuity is a tax-free return of basis, so that only $492,484 is taxable. And, Senior has an immediate benefit from the $3,233,836 charitable income tax deduction that can save Senior $1,319,410 in Federal income taxes. Senior is far better off with the charitable gift annuity.



What if Senior lives well into her 90s?

- Senior has the financial security that the annuity will continue for as long as she lives.
- If Senior did no planning, sold the appreciated asset, and invested the after-tax $8,096,000, Senior will still have this amount to pass on to her descendants. With the annuity, there is no amount passing on to her descendants. But, the $1,319,410 of income tax savings from the $3,233,836 charitable income tax deduction, and what it grows to, will replace a significant portion of the $3,233,836 gifted to charity.
- Remember that Senior age 70 is deemed to live only 15.5 years. Realistically, Senior will live another 20 or more years

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Topic #7:

Using the CRUT to Defer Reporting Gain Upon the Sale of Assets

Reminder you are adding something here on deferring

#7 – Using the CRUT for Deferral of Gain

<u>Using the Charitable Remainder Unitrust to defer reporting the gain realized upon the sale of an appreciated asset for cash.</u>

1. Structuring the charitable remainder trust.
   a) When should the unitrust be used instead of the annuity trust
   b) Should the CRT be for a fixed term or, for life, or a permitted hybrid—such as “for the shorter of 20 years or the joint lifetime of John and Mary”.
   c) Maximizing the unitrust percentage

#7 – Using the CRUT for Deferral of Gain

2. Illustrating the financial benefits of the CRUT.
   a) The income tax benefit of the charitable income tax deduction.
   b) Taking advantage of the fact that the mortality tables use an understated life expectancy.
   c) Recognizing that the measuring life will probably live beyond the assumed §7520 life expectancy if of reasonable health.
   d) The ability to appoint a lower tax bracket family member or friend as trustee who can receive reasonable compensation may be considered. The IRS will accept statutory fee percentages, but this will cause income tax and possible employment taxes to be imposed upon the trustee or trustees.
   e) Using different rates of return assumptions on the investment of the sales proceeds to illustrate the income tax advantages from deferring the reporting of the gain realized upon the immediate sale of the appreciated asset.
   f) Compare the benefits of the deferral to no tax planning.

Using the charitable remainder trust to postpone the reporting of a gain realized from the sale of a marketable security for cash

Example 1: Senior, **age 59**, owns a stock in a public company valued at $10,000,000 with a zero basis. The individual contributes the appreciated stock to a CRUT, retaining a 14.691% unitrust interest for life. *Unitrust calculations are not dependent upon the § 7520 rate*. The 14.691% unitrust rate is the maximum percentage that still satisfies the 10% value of trust principal that passes to the charitable remainder beneficiary. Therefore, Senior is entitled to an immediate $1,000,000 charitable income tax deduction. Although the unitrust percentage can be lower than the maximum percentage, 5% is the minimum unitrust percentage that can be used.

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Immediately after the CRUT received the stock, the trustee sold the stock for $10,000,000 cash and realized a $10,000,000 long-term capital gain. During the first year the investment of the $10,000,000 sale proceeds earns 5%, or $500,000, consisting of interest and dividends. At the end of the first year the trustee distributes $1,469,100 to Senior.

Applying the 4-tier allocation rule under Section 664(b), the entire distribution is subject to income tax to the individual. After the $500,000 of trust accounting income is allocated (a tier 1 distribution), the remaining $969,100 is a tier 4 distribution of trust principal and the entire $969,100 is reported as a long-term capital gain because there was no basis in the contributed asset sold by the trust. Reg. §1.1014-5(c) and (d) Exs. 7 and 8.

It is actually now a 5 tier system when IRC Section 199A applies.

The $1,000,000 charitable income tax deduction provides an immediate income tax benefit as it can be used to offset taxable income for the year the CRUT is created and for the next five years.

- After the payment of the income taxes on the $1,491,000 of income, the individual has $860,000 of cash remaining. Senior can invest the after-tax cash in assets without any restrictions.
- The $1,000,000 charitable income tax deduction can be used to offset up to 50% of adjusted gross income, including the first year unitrust payment received in the same tax year the CRUT was created.

If the § 7520 rate is less than 5.0%, the CRUT will generate a larger charitable income tax deduction that the CRAT. The § 7520 rate has not exceeded 5.0% since November 2007 and is not expected to be greater than 5.0% for the near future.

- **Example 2:** On January 1 Senior, **age 65**, contributes zero basis stock in a public company worth $10,000,000 to a CRUT and retains an annual 19.519% unitrust interest for life. The older the measuring life, the larger the maximum unitrust %. By maximizing the unitrust percentage, Senior's immediate income tax charitable deduction is limited to 10% of the value of the asset contributed to the trust, or a $1,000,000 charitable income tax deduction. The first payment must be made on the last day of the trust's taxable year, the calendar year, and is prorated for the short year.

The trustee sells the stock and invests the entire $10,000,000 of sale proceeds in a diversified portfolio of marketable securities earning a 5.0% rate of return.

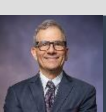
- Under the 2000 CM mortality tables, Senior's life expectancy is 17.8 years. Therefore, Senior (age 65) is estimated to live to age 82.7. There is a 50% probability Senior will still be alive in 17.8 years. A life insurance company rates Senior in excellent health and estimates Senior will live to age 93, an additional 10 years.
- The following table illustrates the portion of the $10,000,000 capital gain reported by Senior each year upon the receipt of each annual unitrust payment using the assumption that the trust earns a 5% rate of return on its investments. The illustration carries out its projections to the age Senior is expected to survive.

Year	Beginning Principal	Add: Income	Less: Distributions	Ending Principal	Capital Gain From Principal
1	$ 10,000,000.00	$500,000.00	$1,951,900.00	$8,548,100.00	1,451,900.00
2	$ 8,548,100.00	$427,405.00	$1,668,503.64	$7,307,001.36	1,241,098.64
3	$ 7,307,001.36	$365,350.07	$1,426,253.60	$6,246,097.83	1,060,903.53
4	$ 6,246,097.83	$312,304.89	$1,219,175.84	$5,339,226.88	906,870.95
5	$ 5,339,226.88	$266,961.34	$1,042,163.69	$4,564,024.53	775,202.35
6	$ 4,564,024.53	$228,201.23	$ 890,851.95	$3,901,373.81	662,650.72
7	$ 3,901,373.81	$195,068.69	$ 761,509.15	$3,334,933.35	556,440.46
8	$ 3,334,933.35	$166,746.67	$ 650,945.64	$2,850,734.38	484,198.97
9	$ 2,850,734.38	$142,536.72	$ 556,434.84	$2,436,836.26	413,898.12
10	$ 2,436,836.26	$121,841.81	$ 475,646.07	$2,083,032.00	353,804.26
11	$ 2,083,032.00	$104,151.60	$ 406,587.02	$1,780,596.58	302,435.42

Year	Beginning Principal	Add: Income	Less: Distributions	Ending Principal	Capital Gain From Principal
12	$1,780,596.58	$ 89,029.83	$ 347,554.65	$1,522,071.76	258,524.83
13	$1,522,071.76	$ 76,103.59	$ 297,093.19	$1,301,082.16	220,989.60
14	$1,301,082.16	$ 65,054.11	$ 253,958.23	$1,112,178.04	188,904.12
15	$1,112,178.04	$ 55,608.90	$ 217,086.03	$ 950,700.91	161,477.13
16	$ 950,700.91	$ 47,535.05	$ 185,567.31	$ 812,668.65	138,032.26
17	$ 812,668.65	$ 40,633.43	$ 158,624.79	$ 694,677.29	117,991.36
18	$ 694,677.29	$ 34,733.86	$ 135,594.06	$ 593,817.09	100,860.20
19	$ 593,817.09	$ 29,690.85	$ 115,907.16	$ 507,600.78	86,216.31
20	$ 507,600.78	$ 25,380.04	$ 99,078.60	$ 433,902.22	73,698.56
21	$ 433,902.22	$ 21,695.11	$ 84,693.37	$ 370,903.96	62,998.26
22	$ 370,903.96	$ 18,545.20	$ 72,396.74	$ 317,052.42	53,851.54
23	$ 317,052.42	$ 15,852.62	$ 61,885.46	$ 271,019.58	46,032.84
24	$ 271,019.58	$ 13,550.98	$ 52,900.31	$ 231,670.25	39,349.33
25	$ 231,670.25	$ 11,583.51	$ 45,219.72	$ 198,034.04	33,636.21
26	$ 198,034.04	$ 9,901.70	$ 38,654.26	$ 169,281.48	28,752.56
27	$ 169,281.48	$ 8,464.07	$ 33,042.05	$ 144,703.50	24,577.98
Totals		$3,393,930.87	$13,249,227.37		$9,855,296.50

What if the measuring life does not want to take the risk of a premature death?

- Create a CRUT for a fixed term. For a fixed term the maximum is up to 20 years. At 20 Years, the maximum unitrust % is 10.85%. As a result less principal is invaded and more goes to the charity at the end of 20 years. Whereas the unitrust % for a lifetime CRUT for age 65 is 19.519%.



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Inputs

FMV of Trust	1,000,000
Income Rate	4%
Unitrust Percentage Payout	11%
Trust Term	**20 years**
Cap Gain tax Rate	23.80%
Ordinary Income Tax Rate	40.80%

Charitable deduction is 10% of trust principal

Year	Beginning Principal	Income at 4.0%	Distribution at 11.0%	Trust Principal Remaining	Capital Gain Reported
1	1,000,000	40,000	110,000	930,000	70,000
2	930,000.00	37,200	102,300	864,900	65,100
3	864,900.00	34,596	95,139	804,357	60,543
4	804,357.00	32,174	88,479	748,052	56,305
5	748,052.01	29,922	82,286	695,688	52,364
6	695,688.37	27,828	76,526	646,990	48,698
7	646,990.18	25,880	71,169	601,701	45,289
8	601,700.87	24,068	66,187	559,582	42,119
9	559,581.81	22,383	61,554	520,411	39,171
10	520,411.08	20,816	57,245	483,982	36,429
11	483,982.31	19,359	53,238	450,104	33,879
12	450,103.55	18,004	49,511	418,596	31,507
13	418,596.30	16,744	46,046	389,295	29,302
14	389,294.56	15,572	42,822	362,044	27,251
15	362,043.94	14,482	39,825	336,701	25,343
16	336,700.86	13,468	37,037	313,132	23,569
17	313,131.80	12,525	34,444	291,213	21,919
18	291,212.58	11,649	32,033	270,828	20,385
19	270,827.70	10,833	29,791	251,870	18,958
20	251,869.76	10,075	27,706	234,239	17,631
Summary		**437,577.79**	**1,203,338.91**	**234,238.87**	**765,761**

Less: Tax on tier 4 Cap Gain at 23.8%	Less: Tax on tier 1 Income at 40.8%	Annual Net After payment of Tax
16,660	16,320	77,020
15,494	15,178	71,629
14,409	14,115	66,615
13,401	13,127	61,952
12,463	12,208	57,615
11,590	11,354	53,582
10,779	10,559	49,831
10,024	9,820	46,343
9,323	9,132	43,099
8,670	8,493	40,082
8,063	7,899	37,276
7,499	7,346	34,667
6,974	6,831	32,240
6,486	6,353	29,983
6,032	5,909	27,885
5,609	5,495	25,933
5,217	5,110	24,117
4,852	4,753	22,429
4,512	4,420	20,859
4,196	4,111	19,399
Totals **182,251**	**178,532**	**842,556**

	Income on balance	Tax on income at 40.8%	Accumulated Year End Balance
1	-	-	77,020
2	3,081	1,257	150,472
3	6,019	2,456	220,650
4	8,826	3,601	287,827
5	11,513	4,697	352,257
6	14,090	5,749	414,181
7	16,567	6,759	473,820
8	18,953	7,733	531,383
9	21,255	8,672	587,065
10	23,483	9,581	641,049
11	25,642	10,462	693,505
12	27,740	11,318	744,594
13	29,784	12,152	794,467
14	31,779	12,966	843,263
15	33,731	13,762	891,116
16	35,645	14,543	938,150
17	37,526	15,311	984,483
18	39,379	16,067	1,030,225
19	41,209	16,813	1,075,480
20	43,019	17,552	**1,120,346**
Totals	**469,240**	**191,450**	**842,556 + 277,790 = 1,120,346**

CRUT Tables

The following examples demonstrate how to illustrate the benefits of using the charitable remainder trust to sell an appreciated asset to a potential client. First, one needs to show the financial impact if no income tax deferral planning is implemented. Instead, the taxpayer sells the appreciated asset for cash and invests the after-tax proceeds at an assumed rate of return over an assumed period. This result will be used to compare the result over the same time period using the same investment rate of return assumption by using the charitable remainder trust.

When illustrating the use of the charitable remainder trust, four separate tables are needed. The first table illustrates how the unitrust percentage applies each year to demonstrate how each distribution is characterized for income tax purposes and the amount passing to charity at the end of the assumed period. The second table illustrates the after-tax amount received with each distribution. The third table shows how much is accumulated over the assumed period if the after-tax proceeds are invested at the same rate of return. The fourth table shows the income tax savings from the charitable income tax deduction.

We assume a 5.0% investment rate of return and an effective income tax rate of 23.8% on capital gains and a 40.8% income tax rate on ordinary income. It is assumed that all sale proceeds are invested in assets that produce ordinary income.

CRUT Tables

The first spreadsheet uses a 20-year fixed term CRT with a 10.85% unitrust amount.

All illustrations will assume a capital asset valued at $10,000,000 with a zero basis. The income tax rates are 23.8% on capital gains and 40.8% on ordinary income. All proceeds are invested in assets that produce ordinary income at a 5.0% investment rate.

The first spreadsheet uses a 20-year fixed term with a 10.85% unitrust rate so that the charitable income tax deduction equals 10% of trust principal contributed to the charitable remainder trust. With a fixed term, death does not terminate the trust early.

The second spreadsheet uses a CRUT for life for a measuring life age 60 and assumes that the measuring life lives to age 90. So a 30-year projection is used. For age 60, the maximum unitrust percentage is 14.99%

The third spreadsheet is a CRUT for life, with a person age 65 who lives to age 90. For age 65, the maximum unitrust percentage is 19.21% and a 25 year projection is used.

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Charitable Remainder Unitrust (CRUT) - Fixed Term 20 year CRUT (age irrelevant)

Input Summary	
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FMV of Trust	*1,000,000*
Income Rate	*5.00%*
Percentage Payout	*10.85%*
Term	*20*
Cap Gain Rate	*23.80%*
Income Tax Rate	*40.80%*

Summary	
Tax Planning	
Total Amount to Taxpayer	2,345,084
Total Amount to Charity	121,258
No Tax Planning	
Total Amount to Taxpayer	2,054,401
Total Amount to Charity	0

												Growth on Savings From Charitable Deduction			No Tax Planning		
Year	Beginning Principal	Income	Distribution	Remainder	Capital Gain Reported	Tax on Cap Gain	Tax on Income	Annual Net After Tax	Income on Balance	Taxes on Balance Income	Accumulated Year End Balance	Income on Charitable Deduction Savings	Tax on Income	Accunulated YE Balance	Income on money invested	Tax on Income	Accumulated YE Balance
1	1,000,000	50,000	108,500	941,500	58,500	13,923	20,400	74,177	-	-	74,177			40,800			762,000
2	941,500.00	47,075	102,153	886,422	55,078	13,109	19,207	69,838	3,709	1,513	146,210	2,040	832	42,008	38,100	15,545	784,555
3	886,422.25	44,321	96,177	834,567	51,856	12,342	18,083	65,752	7,311	2,983	216,290	2,100	857	43,251	39,228	16,005	807,778
4	834,566.55	41,728	90,550	785,744	48,822	11,620	17,025	61,906	10,815	4,412	284,598	2,163	882	44,531	40,389	16,479	831,688
5	785,744.41	39,287	85,253	739,778	45,966	10,940	16,029	58,284	14,230	5,806	351,306	2,227	908	45,849	41,584	16,966	856,306
6	739,778.36	36,989	80,266	696,501	43,277	10,300	15,091	54,875	17,565	7,167	416,580	2,292	935	47,207	42,815	17,469	881,653
7	696,501.32	34,825	75,570	655,756	40,745	9,697	14,209	51,664	20,829	8,498	480,575	2,360	963	48,604	44,083	17,986	907,750
8	655,756.00	32,788	71,150	617,394	38,362	9,130	13,377	48,642	24,029	9,804	543,442	2,430	992	50,043	45,387	18,518	934,619
9	617,394.27	30,870	66,987	581,277	36,118	8,596	12,595	45,796	27,172	11,086	605,324	2,502	1,021	51,524	46,731	19,066	962,284
10	581,276.71	29,064	63,069	547,272	34,005	8,093	11,858	43,117	30,266	12,349	666,359	2,576	1,051	53,049	48,114	19,631	990,768
11	547,272.02	27,364	59,379	515,257	32,015	7,620	11,164	40,595	33,318	13,594	726,678	2,652	1,082	54,619	49,538	20,212	1,020,094
12	515,256.61	25,763	55,905	485,114	30,143	7,174	10,511	38,220	36,334	14,824	786,408	2,731	1,114	56,236	51,005	20,810	1,050,289
13	485,114.09	24,256	52,635	456,735	28,379	6,754	9,896	35,984	39,320	16,043	845,670	2,812	1,147	57,901	52,514	21,426	1,081,378
14	456,734.92	22,837	49,556	430,016	26,719	6,359	9,317	33,879	42,284	17,252	904,581	2,895	1,181	59,614	54,069	22,060	1,113,386
15	430,015.93	21,501	46,657	404,860	25,156	5,987	8,772	31,897	45,229	18,453	963,254	2,981	1,216	61,379	55,669	22,713	1,146,343
16	404,859.99	20,243	43,927	381,176	23,684	5,637	8,259	30,031	48,163	19,650	1,021,798	3,069	1,252	63,196	57,317	23,385	1,180,274
17	381,175.69	19,059	41,358	358,877	22,299	5,307	7,776	28,274	51,090	20,845	1,080,317	3,160	1,289	65,066	59,014	24,078	1,215,211
18	358,876.91	17,944	38,938	337,883	20,994	4,997	7,321	26,620	54,016	22,038	1,138,915	3,253	1,327	66,992	60,761	24,790	1,251,181
19	337,882.61	16,894	36,660	318,116	19,766	4,704	6,893	25,063	56,946	23,234	1,197,690	3,350	1,367	68,975	62,559	25,524	1,288,216
20	318,116.48	15,906	34,516	299,507	18,610	4,429	6,490	23,597	59,885	24,433	1,256,739	3,449	1,407	71,017	64,411	26,280	1,326,347
21	299,506.66	14,975	32,496	281,986	17,521	4,170	6,110	22,217	62,837	25,637	1,316,155	3,551	1,449	73,119	66,317	27,057	1,365,607
22	281,985.52	14,099	30,595	265,489	16,496	3,926	5,753	20,917	65,808	26,850	1,376,030	3,656	1,492	75,283	68,280	27,858	1,406,029
23	265,489.37	13,274	28,806	249,958	15,531	3,696	5,416	19,693	68,801	28,071	1,436,453	3,764	1,536	77,512	70,301	28,683	1,447,647
24	249,958.24	12,498	27,120	235,336	14,623	3,480	5,099	18,541	71,823	29,304	1,497,514	3,876	1,581	79,806	72,382	29,532	1,490,497
25	235,335.68	11,767	25,534	221,569	13,767	3,277	4,801	17,456	74,876	30,549	1,559,296	3,990	1,628	82,168	74,525	30,406	1,534,616
26	221,568.55	11,078	24,040	208,607	12,962	3,085	4,520	16,435	77,965	31,810	1,621,887	4,108	1,676	84,601	76,731	31,306	1,580,041
27	208,606.79	10,430	22,634	196,403	12,203	2,904	4,256	15,474	81,094	33,086	1,685,369	4,230	1,726	87,105	79,002	32,233	1,626,810
28	196,403.29	9,820	21,310	184,914	11,490	2,735	4,007	14,569	84,268	34,382	1,749,824	4,355	1,777	89,683	81,341	33,187	1,674,964
29	184,913.70	9,246	20,063	174,096	10,817	2,575	3,772	13,716	87,491	35,696	1,815,335	4,484	1,830	92,338	83,748	34,169	1,724,543
30	174,096.25	8,705	18,889	163,912	10,185	2,424	3,552	12,914	90,767	37,033	1,881,983	4,617	1,884	95,071	86,227	35,181	1,775,589
31	163,911.62	8,196	17,784	154,323	9,589	2,282	3,344	12,158	94,099	38,392	1,949,848	4,754	1,939	97,885	88,779	36,222	1,828,146
32	154,322.79	7,716	16,744	145,295	9,028	2,149	3,148	11,447	97,492	39,777	2,019,011	4,894	1,997	100,782	91,407	37,294	1,882,260
33	145,294.90	7,265	15,764	136,795	8,500	2,023	2,964	10,778	100,951	41,188	2,089,551	5,039	2,056	103,766	94,113	38,398	1,937,974
34	136,795.15	6,840	14,842	128,793	8,003	1,905	2,791	10,147	104,478	42,627	2,161,549	5,188	2,117	106,837	96,899	39,535	1,995,339
35	128,792.63	6,440	13,974	121,258	7,534	1,793	2,627	9,553	108,077	44,096	2,235,084	5,342	2,179	109,999	99,767	40,705	2,054,401
Summary		751,061.31	1,629,803.05	121,258.27	878,741.73	209,140.53	306,433.02	1,114,229.50	1,893,335.83	772,481.02	2,235,084	116,890.88	47,691.48	109,999	2,183,109.05	890,708.49	2,054,401

Charitable Remainder Unitrust (CRUT) - Projection - Age 65 CRUT for life to age 90

Input Summary	
TO UPDATE GO TO "INPUT" TAB DO NOT CHANGE HERE	
FMV of Trust	1,000,000
Income Rate	5.00%
Percentage Payout	19.21%
Term	25
Cap Gain Rate	23.80%
Income Tax Rate	40.80%

Summary	
Tax Planning	
Total Amount to Taxpayer	2,335,345
Total Amount to Charity	4,680
No Tax Planning	
Total Amount to Taxpayer	2,054,401
Total Amount to Charity	0

												Growth on Savings From Charitable Deduction			No Tax Planning		
Year	Beginning Principal	Income	Distribution	Remainder	Capital Gain Reported	Tax on Cap Gain	Tax on Income	Annual Net After Tax	Income on Balance	Taxes on Balance Income	Accumulated Year End Balance	Income on Charitable Deduction Savings	Tax on Income	Accunulated YE Balance	Income on money invested	Tax on Income	Accumulated YE Balance
1	1,000,000	50,000	192,100	857,900	142,100	33,820	20,400	137,880	-	-	137,880			40,800			762,000
2	857,900.00	42,895	164,803	735,992	121,908	29,014	17,501	118,287	6,894	2,813	260,249	2,040	832	42,008	38,100	15,545	784,555
3	735,992.41	36,800	141,384	631,408	104,585	24,891	15,014	101,479	13,012	5,309	369,431	2,100	857	43,251	39,228	16,005	807,778
4	631,407.89	31,570	121,293	541,685	89,723	21,354	12,881	87,059	18,472	7,536	467,425	2,163	882	44,531	40,389	16,479	831,688
5	541,684.83	27,084	104,058	464,711	76,973	18,320	11,050	74,688	23,371	9,535	555,948	2,227	908	45,849	41,584	16,966	856,306
6	464,711.41	23,236	89,271	398,676	66,035	15,716	9,480	64,075	27,797	11,341	636,479	2,292	935	47,207	42,815	17,469	881,653
7	398,675.92	19,934	76,586	342,024	56,652	13,483	8,133	54,970	31,824	12,984	710,288	2,360	963	48,604	44,083	17,986	907,750
8	342,024.07	17,101	65,703	293,422	48,602	11,567	6,977	47,158	35,514	14,490	778,471	2,430	992	50,043	45,387	18,518	934,619
9	293,422.45	14,671	56,366	251,727	41,695	9,923	5,986	40,457	38,924	15,881	841,971	2,502	1,021	51,524	46,731	19,066	962,284
10	251,727.12	12,586	48,357	215,957	35,770	8,513	5,135	34,708	42,099	17,176	901,601	2,576	1,051	53,049	48,114	19,631	990,768
11	215,956.70	10,798	41,485	185,269	30,687	7,304	4,406	29,776	45,080	18,393	958,065	2,652	1,082	54,619	49,538	20,212	1,020,094
12	185,269.25	9,263	35,590	158,942	26,327	6,266	3,779	25,545	47,903	19,545	1,011,969	2,731	1,114	56,236	51,005	20,810	1,050,289
13	158,942.49	7,947	30,533	136,357	22,586	5,375	3,242	21,915	50,598	20,644	1,063,838	2,812	1,147	57,901	52,514	21,426	1,081,378
14	136,356.76	6,818	26,194	116,980	19,376	4,612	2,782	18,801	53,192	21,702	1,114,128	2,895	1,181	59,614	54,069	22,060	1,113,386
15	116,980.47	5,849	22,472	100,358	16,623	3,956	2,386	16,129	55,706	22,728	1,163,236	2,981	1,216	61,379	55,669	22,713	1,146,343
16	100,357.54	5,018	19,279	86,097	14,261	3,394	2,047	13,837	58,162	23,730	1,211,505	3,069	1,252	63,196	57,317	23,385	1,180,274
17	86,096.74	4,305	16,539	73,862	12,234	2,912	1,756	11,871	60,575	24,715	1,259,237	3,160	1,289	65,066	59,014	24,078	1,215,211
18	73,862.39	3,693	14,189	63,367	10,496	2,498	1,507	10,184	62,962	25,688	1,306,694	3,253	1,327	66,992	60,761	24,790	1,251,181
19	63,366.54	3,168	12,173	54,362	9,004	2,143	1,293	8,737	65,335	26,657	1,354,109	3,350	1,367	68,975	62,559	25,524	1,288,216
20	54,362.16	2,718	10,443	46,637	7,725	1,839	1,109	7,495	67,705	27,624	1,401,686	3,449	1,407	71,017	64,411	26,280	1,326,347
21	46,637.30	2,332	8,959	40,010	6,627	1,577	951	6,430	70,084	28,594	1,449,607	3,551	1,449	73,119	66,317	27,057	1,365,607
22	40,010.14	2,001	7,686	34,325	5,685	1,353	816	5,517	72,480	29,572	1,498,032	3,656	1,492	75,283	68,280	27,858	1,406,029
23	34,324.70	1,716	6,594	29,447	4,878	1,161	700	4,733	74,902	30,560	1,547,106	3,764	1,536	77,512	70,301	28,683	1,447,647
24	29,447.16	1,472	5,657	25,263	4,184	996	601	4,060	77,355	31,561	1,596,961	3,876	1,581	79,806	72,382	29,532	1,490,497
25	25,262.72	1,263	4,853	21,673	3,590	854	515	3,483	79,848	32,578	1,647,714	3,990	1,628	82,168	74,525	30,406	1,534,616
26	21,672.88	1,084	4,163	18,593	3,080	733	442	2,988	82,386	33,613	1,699,474	4,108	1,676	84,601	76,731	31,306	1,580,041
27	18,593.17	930	3,572	15,951	2,642	629	379	2,564	84,974	34,669	1,752,342	4,230	1,726	87,105	79,002	32,233	1,626,810
28	15,951.08	798	3,064	13,684	2,267	539	325	2,199	87,617	35,748	1,806,411	4,355	1,777	89,683	81,341	33,187	1,674,964
29	13,684.43	684	2,629	11,740	1,945	463	279	1,887	90,321	36,851	1,861,768	4,484	1,830	92,338	83,748	34,169	1,724,543
30	11,739.87	587	2,255	10,072	1,668	397	239	1,619	93,088	37,980	1,918,495	4,617	1,884	95,071	86,227	35,181	1,775,589
31	10,071.64	504	1,935	8,640	1,431	341	205	1,389	95,925	39,137	1,976,671	4,754	1,939	97,885	88,779	36,222	1,828,146
32	8,640.46	432	1,660	7,413	1,228	292	176	1,191	98,834	40,324	2,036,372	4,894	1,997	100,782	91,407	37,294	1,882,260
33	7,412.65	371	1,424	6,359	1,053	251	151	1,022	101,819	41,542	2,097,670	5,039	2,056	103,766	94,113	38,398	1,937,974
34	6,359.31	318	1,222	5,456	904	215	130	877	104,884	42,792	2,160,638	5,188	2,117	106,837	96,899	39,535	1,995,339
35	5,455.65	273	1,048	4,680	775	185	111	752	108,032	44,077	2,225,345	5,342	2,179	109,999	99,767	40,705	2,054,401
Summary		350,218.01	1,345,537.61	4,680.40	995,319.60	236,886.06	142,888.95	965,762.60	2,127,673.51	868,090.79	2,225,345	116,890.88	47,691.48	109,999	2,183,109.05	890,708.49	2,054,401

Charitable Remainder Unitrust (CRUT) - Projection - Age 60 CRUT for life to age 90

Input Summary	
TO UPDATE GO TO "INPUT" TAB DO NOT CHANGE HERE	
FMV of Trust	1,000,000
Income Rate	5.00%
Percentage Payout	19.21%
Term	25
Cap Gain Rate	23.80%
Income Tax Rate	40.80%

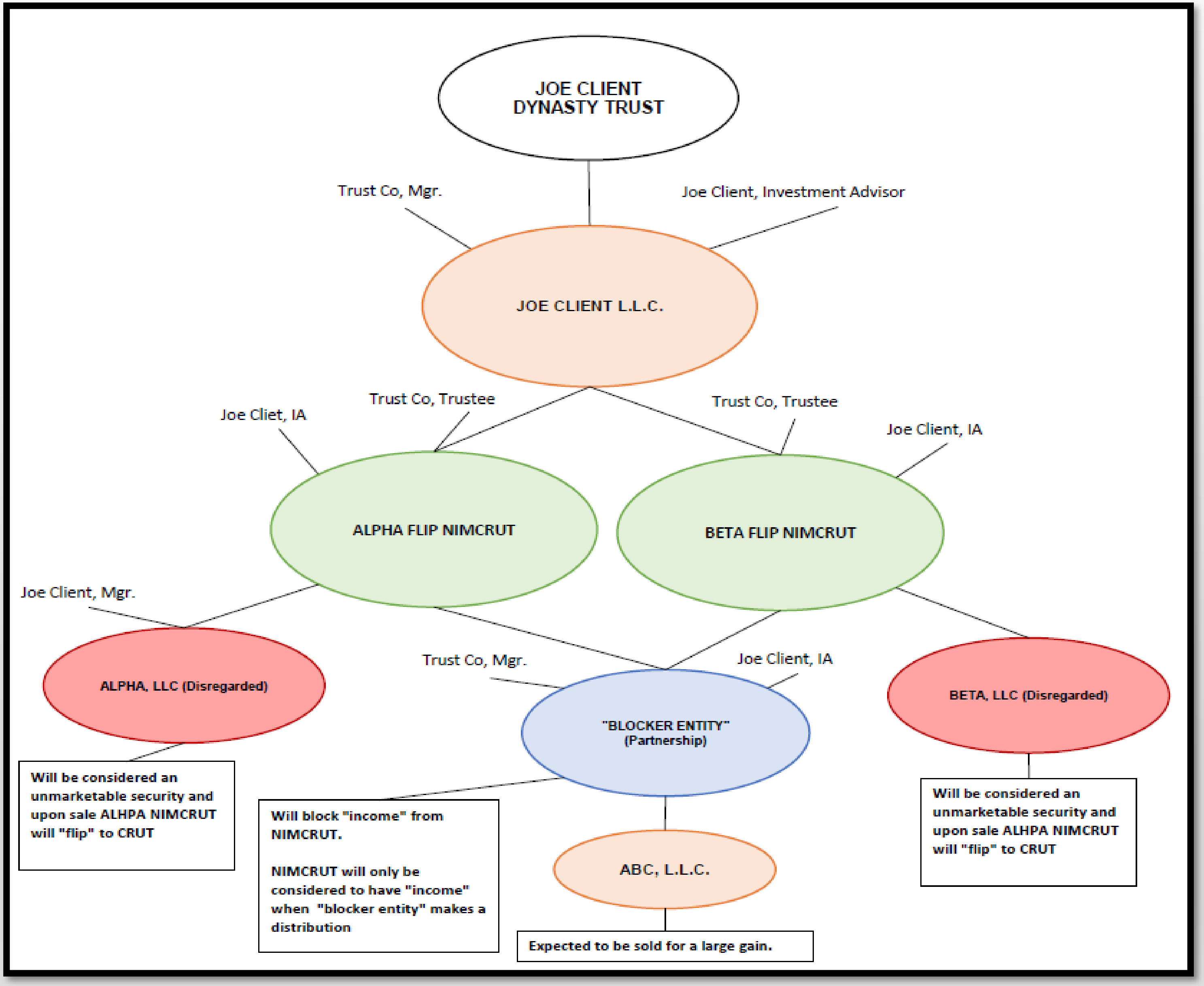
Summary	
Tax Planning	
Total Amount to Taxpayer	2,335,345
Total Amount to Charity	4,680
No Tax Planning	
Total Amount to Taxpayer	2,054,401
Total Amount to Charity	0

												Growth on Savings From Charitable Deduction			No Tax Planning		
Year	Beginning Principal	Income	Distribution	Remainder	Capital Gain Reported	Tax on Cap Gain	Tax on Income	Annual Net After Tax	Income on Balance	Taxes on Balance Income	Accumulated Year End Balance	Income on Charitable Deduction Savings	Tax on Income	Accumulated YE Balance	Income on money invested	Tax on Income	Accumulated YE Balance
1	1,000,000	50,000	192,100	857,900	142,100	33,820	20,400	137,880	-	-	137,880			40,800			762,000
2	857,900.00	42,895	164,803	735,992	121,908	29,014	17,501	118,287	6,894	2,813	260,249	2,040	832	42,008	38,100	15,545	784,555
3	735,992.41	36,800	141,384	631,408	104,585	24,891	15,014	101,479	13,012	5,309	369,431	2,100	857	43,251	39,228	16,005	807,778
4	631,407.89	31,570	121,293	541,685	89,723	21,354	12,881	87,059	18,472	7,536	467,425	2,163	882	44,531	40,389	16,479	831,688
5	541,684.83	27,084	104,058	464,711	76,973	18,320	11,050	74,688	23,371	9,535	555,948	2,227	908	45,849	41,584	16,966	856,306
6	464,711.41	23,236	89,271	398,676	66,035	15,716	9,480	64,075	27,797	11,341	636,479	2,292	935	47,207	42,815	17,469	881,653
7	398,675.92	19,934	76,586	342,024	56,652	13,483	8,133	54,970	31,824	12,984	710,288	2,360	963	48,604	44,083	17,986	907,750
8	342,024.07	17,101	65,703	293,422	48,602	11,567	6,977	47,158	35,514	14,490	778,471	2,430	992	50,043	45,387	18,518	934,619
9	293,422.45	14,671	56,366	251,727	41,695	9,923	5,986	40,457	38,924	15,881	841,971	2,502	1,021	51,524	46,731	19,066	962,284
10	251,727.12	12,586	48,357	215,957	35,770	8,513	5,135	34,708	42,099	17,176	901,601	2,576	1,051	53,049	48,114	19,631	990,768
11	215,956.70	10,798	41,485	185,269	30,687	7,304	4,406	29,776	45,080	18,393	958,065	2,652	1,082	54,619	49,538	20,212	1,020,094
12	185,269.25	9,263	35,590	158,942	26,327	6,266	3,779	25,545	47,903	19,545	1,011,969	2,731	1,114	56,236	51,005	20,810	1,050,289
13	158,942.49	7,947	30,533	136,357	22,586	5,375	3,242	21,915	50,598	20,644	1,063,838	2,812	1,147	57,901	52,514	21,426	1,081,378
14	136,356.76	6,818	26,194	116,980	19,376	4,612	2,782	18,801	53,192	21,702	1,114,128	2,895	1,181	59,614	54,069	22,060	1,113,386
15	116,980.47	5,849	22,472	100,358	16,623	3,956	2,386	16,129	55,706	22,728	1,163,236	2,981	1,216	61,379	55,669	22,713	1,146,343
16	100,357.54	5,018	19,279	86,097	14,261	3,394	2,047	13,837	58,162	23,730	1,211,505	3,069	1,252	63,196	57,317	23,385	1,180,274
17	86,096.74	4,305	16,539	73,862	12,234	2,912	1,756	11,871	60,575	24,715	1,259,237	3,160	1,289	65,066	59,014	24,078	1,215,211
18	73,862.39	3,693	14,189	63,367	10,496	2,498	1,507	10,184	62,962	25,688	1,306,694	3,253	1,327	66,992	60,761	24,790	1,251,181
19	63,366.54	3,168	12,173	54,362	9,004	2,143	1,293	8,737	65,335	26,657	1,354,109	3,350	1,367	68,975	62,559	25,524	1,288,216
20	54,362.16	2,718	10,443	46,637	7,725	1,839	1,109	7,495	67,705	27,624	1,401,686	3,449	1,407	71,017	64,411	26,280	1,326,347
21	46,637.30	2,332	8,959	40,010	6,627	1,577	951	6,430	70,084	28,594	1,449,607	3,551	1,449	73,119	66,317	27,057	1,365,607
22	40,010.14	2,001	7,686	34,325	5,685	1,353	816	5,517	72,480	29,572	1,498,032	3,656	1,492	75,283	68,280	27,858	1,406,029
23	34,324.70	1,716	6,594	29,447	4,878	1,161	700	4,733	74,902	30,560	1,547,106	3,764	1,536	77,512	70,301	28,683	1,447,647
24	29,447.16	1,472	5,657	25,263	4,184	996	601	4,060	77,355	31,561	1,596,961	3,876	1,581	79,806	72,382	29,532	1,490,497
25	25,262.72	1,263	4,853	21,673	3,590	854	515	3,483	79,848	32,578	1,647,714	3,990	1,628	82,168	74,525	30,406	1,534,616
26	21,672.88	1,084	4,163	18,593	3,080	733	442	2,988	82,386	33,613	1,699,474	4,108	1,676	84,601	76,731	31,306	1,580,041
27	18,593.17	930	3,572	15,951	2,642	629	379	2,564	84,974	34,669	1,752,342	4,230	1,726	87,105	79,002	32,233	1,626,810
28	15,951.08	798	3,064	13,684	2,267	539	325	2,199	87,617	35,748	1,806,411	4,355	1,777	89,683	81,341	33,187	1,674,964
29	13,684.43	684	2,629	11,740	1,945	463	279	1,887	90,321	36,851	1,861,768	4,484	1,830	92,338	83,748	34,169	1,724,543
30	11,739.87	587	2,255	10,072	1,668	397	239	1,619	93,088	37,980	1,918,495	4,617	1,884	95,071	86,227	35,181	1,775,589
31	10,071.64	504	1,935	8,640	1,431	341	205	1,389	95,925	39,137	1,976,671	4,754	1,939	97,885	88,779	36,222	1,828,146
32	8,640.46	432	1,660	7,413	1,228	292	176	1,191	98,834	40,324	2,036,372	4,894	1,997	100,782	91,407	37,294	1,882,260
33	7,412.65	371	1,424	6,359	1,053	251	151	1,022	101,819	41,542	2,097,670	5,039	2,056	103,766	94,113	38,398	1,937,974
34	6,359.31	318	1,222	5,456	904	215	130	877	104,884	42,792	2,160,638	5,188	2,117	106,837	96,899	39,535	1,995,339
35	5,455.65	273	1,048	4,680	775	185	111	752	108,032	44,077	2,225,345	5,342	2,179	109,999	99,767	40,705	2,054,401
Summary		350,218.01	1,345,537.61	4,680.40	995,319.60	236,886.06	142,888.95	965,762.60	2,127,673.51	868,090.79	2,225,345	116,890.88	47,691.48	109,999	2,183,109.05	890,708.49	2,054,401

<u>TOPIC #8:</u>

FLIP NIMCRUTs

Flip NIMCRUT



Flip-NIMCRUT Requirements

- The Charitable Remainder Unitrust can “flip” to a regular Charitable Remainder Unitrust upon a “triggering event,” and thereafter simply pay out a annual percentage of the trust assets. The triggering event must be stated in the trust agreement.

- A triggering event could be a set date or an event, and the occurrence of such event must not be discretionary or under the control of the trustee or another person.

- A triggering event could be the sale of unmarketable securities. This would allow a CRUT to hold a subsidiary that holds unmarketable securities. When the donor or another person is ready to flip the NIMCRUT, it can sell the unmarketable securities or a portion thereof.

- The Final Regulations list 7 permissible triggering events as described on the next slide.

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Possible Triggering Events For The Flip-NIMCRUT

1. The sale of a non-marketable security - such as a corporation or a limited liability company that may own a promissory note from an unrelated party, real estate, or possibility even marketable securities.

2. Upon the donor's divorce.

3. Upon the donor's marriage.

4. When the income recipient has his or her first child.

5. When the income recipient's father passes away.

6. The sale of the donor's personal residence.

7. Upon the income recipient reaching a certain age.

It does not appear that these are the only possible triggering events, but these are the only ones listed, so it is safest to stick with the ones that are specifically provided for.

If a donor wants to use a triggering event that is not listed in the Final Regulations the donor should be careful to make sure that no person has control of whether the event is going to happen.

NIMCRUT W/ Charitable Deduction

$1,000,000 Contribution, With Only 1% Per Year In Distributable Income – Distributions received are used to pay income taxes thereon, and then invested at a 6% rate of return. Charitable Deduction taken.

Analysis of Net Income with Makeup Charitable Remainder Unitrust (NIMCRUT)
(20 Year Term 8% Return)

1	2	3	4	5	6	7	8	9
Year	NIMCRUT Balance (Assumes 8% Growth)	Distribution to Family (Lesser of Trust Income or Unitrust Amount with Make Up Distributions in Years in Which Trust Income Exceeds Unitrust Amount)	Taxes on Distribution	Net Distribution to Family	Charitable Tax Deduction Benefit	Total Value Family Receives (Includes Tax Deduction Benefit)	Total Amount Charity Receives at End of Twenty Year Term	Total Amount Received Under NIMCRUT if Distributions are Reinvested at 6% Rate of Return
1	$ 1,000,000	$ 10,000	$ (4,080)	$ 5,920	$ 51,924	$ 57,844	$ -	$ 5,920
2	$ 1,070,000	$ 10,700	$ (4,366)	$ 6,334	$ -	$ 64,179	$ -	$ 12,547
3	$ 1,144,900	$ 11,449	$ (4,671)	$ 6,778	$ -	$ 70,956	$ -	$ 19,944
4	$ 1,225,043	$ 12,250	$ (4,998)	$ 7,252	$ -	$ 78,209	$ -	$ 28,182
5	$ 1,310,796	$ 13,108	$ (5,348)	$ 7,760	$ -	$ 85,968	$ -	$ 37,334
6	$ 1,402,552	$ 14,026	$ (5,722)	$ 8,303	$ -	$ 94,272	$ -	$ 47,481
7	$ 1,500,730	$ 15,007	$ (6,123)	$ 8,884	$ -	$ 103,156	$ -	$ 58,711
8	$ 1,605,781	$ 16,058	$ (6,552)	$ 9,506	$ -	$ 112,662	$ -	$ 71,118
9	$ 1,718,186	$ 17,182	$ (7,010)	$ 10,172	$ -	$ 122,834	$ -	$ 84,803
10	$ 1,838,459	$ 18,385	$ (7,501)	$ 10,884	$ -	$ 133,717	$ -	$ 99,876
11	$ 1,967,151	$ 19,672	$ (8,026)	$ 11,646	$ -	$ 145,363	$ -	$ 116,455
12	$ 2,104,852	$ 21,049	$ (8,588)	$ 12,461	$ -	$ 157,824	$ -	$ 134,669
13	$ 2,252,192	$ 22,522	$ (9,189)	$ 13,333	$ -	$ 171,157	$ -	$ 154,654
14	$ 2,409,845	$ 24,098	$ (9,832)	$ 14,266	$ -	$ 185,423	$ -	$ 176,561
15	$ 2,578,534	$ 25,785	$ (10,520)	$ 15,265	$ -	$ 200,688	$ -	$ 200,548
16	$ 2,759,032	$ 27,590	$ (11,257)	$ 16,333	$ -	$ 217,021	$ -	$ 226,788
17	$ 2,952,164	$ 29,522	$ (12,045)	$ 17,477	$ -	$ 234,498	$ -	$ 255,468
18	$ 3,158,815	$ 31,588	$ (12,888)	$ 18,700	$ -	$ 253,198	$ -	$ 286,789
19	$ 3,379,932	$ 33,799	$ (13,790)	$ 20,009	$ -	$ 273,208	$ -	$ 320,965
20	$ 3,616,528	$ 3,663,139	$ (877,975)	$ 2,785,163	$ -	$ 3,058,371	$ 242,711	$ 3,173,908

NIMCRUT

No Planning - Investment of Sales Proceeds in Hypothetical Investment Account and Receive Distribution Each Year					
10	11	12	13	14	15
Balance of Hypothetical Investment Account (Assumes 8% Growth)	Distribution (Distribution Net of Taxes Equals After Tax CRUT Payment each year)	Taxes (1.00% of Assets)	Ending Balance of Hypothetical Investment Account	Cummulative Net Distribtuions With 6% Growth	Total Amount Received by Family (Net account + Cummulative Net Distributions) (Columns 13+14= Column 15)
$ 809,600	$ 14,664	$ (8,744)	$ 850,961	$ 14,664	$ 865,624
$ 850,961	$ 15,525	$ (9,190)	$ 894,322	$ 30,188	$ 924,511
$ 894,322	$ 16,436	$ (9,659)	$ 939,773	$ 46,625	$ 986,398
$ 939,773	$ 17,402	$ (10,150)	$ 987,403	$ 64,027	$ 1,051,430
$ 987,403	$ 18,424	$ (10,664)	$ 1,037,308	$ 82,451	$ 1,119,759
$ 1,037,308	$ 19,506	$ (11,203)	$ 1,089,584	$ 101,957	$ 1,191,540
$ 1,089,584	$ 20,652	$ (11,768)	$ 1,144,331	$ 122,608	$ 1,266,939
$ 1,144,331	$ 21,865	$ (12,359)	$ 1,201,654	$ 144,473	$ 1,346,127
$ 1,201,654	$ 23,150	$ (12,978)	$ 1,261,659	$ 167,623	$ 1,429,282
$ 1,261,659	$ 24,510	$ (13,626)	$ 1,324,456	$ 192,133	$ 1,516,588
$ 1,324,456	$ 25,950	$ (14,304)	$ 1,390,158	$ 218,082	$ 1,608,241
$ 1,390,158	$ 27,474	$ (15,014)	$ 1,458,883	$ 245,557	$ 1,704,440
$ 1,458,883	$ 29,089	$ (15,756)	$ 1,530,749	$ 274,646	$ 1,805,394
$ 1,530,749	$ 30,798	$ (16,532)	$ 1,605,878	$ 305,444	$ 1,911,322
$ 1,605,878	$ 32,608	$ (17,343)	$ 1,684,397	$ 338,052	$ 2,022,449
$ 1,684,397	$ 34,525	$ (18,191)	$ 1,766,432	$ 372,577	$ 2,139,009
$ 1,766,432	$ 36,554	$ (19,077)	$ 1,852,115	$ 409,132	$ 2,261,246
$ 1,852,115	$ 38,703	$ (20,003)	$ 1,941,578	$ 447,835	$ 2,389,413
$ 1,941,578	$ 40,978	$ (20,969)	$ 2,034,957	$ 488,813	$ 2,523,770
$ 2,034,957	$ 2,175,776	$ (21,978)	$ (0)	$ 2,664,589	$ 2,664,589

NIMCRUT

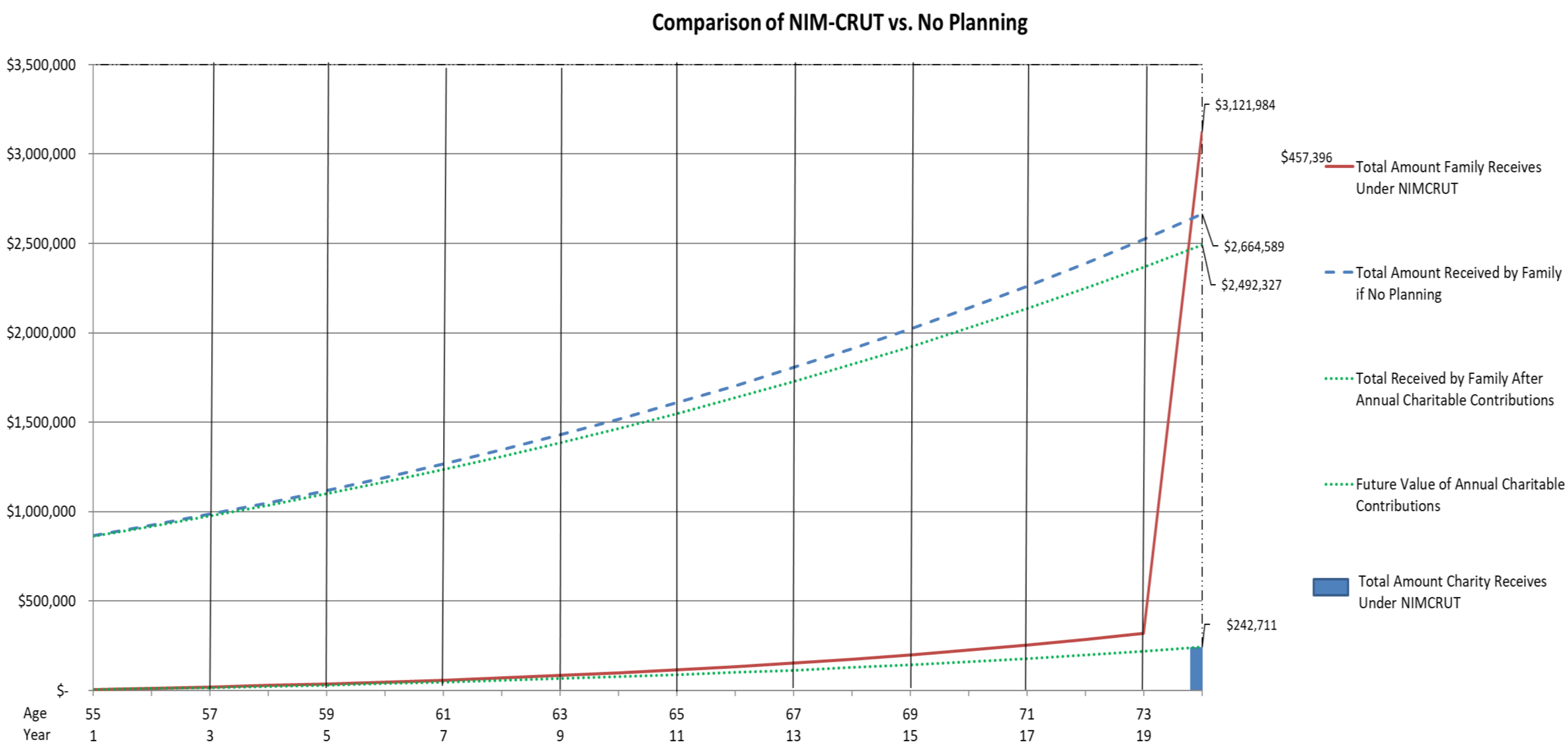
Investment of Net Sales Proceeds in Hypothetical Investment Account and Receive Distributions Each Year Plus Make Charitable Contributions of Equal Present Value						
16	17	18	19	20	21	22
Year	Distribution Received By Family	Payment to Charity	Charitable Deduction Benefit	Cummulative Net Distributions Received by Family	Future Value of Distributions to Charity (Assumes 8% Growth Rate)	Total Benefit Received by Family (Net account + Cummulative Net Distributions - Charity Payment + Value of Charitable Deduction)
1	$ 14,664	$ (5,304)	$ 2,164	$ 14,664	$ 5,304	$ 862,484
2	$ 15,525	$ (5,304)	$ 2,164	$ 30,188	$ 11,032	$ 917,864
3	$ 16,436	$ (5,304)	$ 2,164	$ 46,625	$ 17,218	$ 975,852
4	$ 17,402	$ (5,304)	$ 2,164	$ 64,027	$ 23,899	$ 1,036,565
5	$ 18,424	$ (5,304)	$ 2,164	$ 82,451	$ 31,115	$ 1,100,126
6	$ 19,506	$ (5,304)	$ 2,164	$ 101,957	$ 38,908	$ 1,166,661
7	$ 20,652	$ (5,304)	$ 2,164	$ 122,608	$ 47,325	$ 1,236,300
8	$ 21,865	$ (5,304)	$ 2,164	$ 144,473	$ 56,414	$ 1,309,179
9	$ 23,150	$ (5,304)	$ 2,164	$ 167,623	$ 66,231	$ 1,385,439
10	$ 24,510	$ (5,304)	$ 2,164	$ 192,133	$ 76,833	$ 1,465,225
11	$ 25,950	$ (5,304)	$ 2,164	$ 218,082	$ 88,284	$ 1,548,685
12	$ 27,474	$ (5,304)	$ 2,164	$ 245,557	$ 100,650	$ 1,635,976
13	$ 29,089	$ (5,304)	$ 2,164	$ 274,646	$ 114,006	$ 1,727,256
14	$ 30,798	$ (5,304)	$ 2,164	$ 305,444	$ 128,431	$ 1,822,690
15	$ 32,608	$ (5,304)	$ 2,164	$ 338,052	$ 144,009	$ 1,922,448
16	$ 34,525	$ (5,304)	$ 2,164	$ 372,577	$ 160,833	$ 2,026,702
17	$ 36,554	$ (5,304)	$ 2,164	$ 409,132	$ 179,004	$ 2,135,631
18	$ 38,703	$ (5,304)	$ 2,164	$ 447,835	$ 198,628	$ 2,249,420
19	$ 40,978	$ (5,304)	$ 2,164	$ 488,813	$ 219,822	$ 2,368,254
20	$ 1,960,235	$ (5,304)	$ 2,164	$ 2,449,048	$ 242,711	$ 2,492,327

NIMCRUT

Summary Columns

23	24	25	26	27	28	29	30
Year	Total Received By Family Under NIMCRUT (Column 9)	Total Received by Family Under Hypothetical Investment Account (Column 15)	Total Received by Family Under Hypothetical Investment Account with Charitable Contributions (Column 22)	Difference in Amount Family Receives if No Charitable Planning (Column 25-24)	Difference in Amount Family Receives if Charitable Distributions Made Each Year (Column 26-24)	Total Amount Charity Receives Under NIMCRUT at End of 20 Year Term	Total Tax Savings if NIMCRUT is Used
1	$ 5,920	$ 865,624	$ 862,484	$ 859,704	$ 856,564	$ -	$ 195,064
2	$ 12,547	$ 924,511	$ 917,864	$ 911,964	$ 905,317	$ -	$ 199,888
3	$ 19,944	$ 986,398	$ 975,852	$ 966,453	$ 955,907	$ -	$ 204,876
4	$ 28,182	$ 1,051,430	$ 1,036,565	$ 1,023,248	$ 1,008,383	$ -	$ 210,027
5	$ 37,334	$ 1,119,759	$ 1,100,126	$ 1,082,424	$ 1,062,792	$ -	$ 215,343
6	$ 47,481	$ 1,191,540	$ 1,166,661	$ 1,144,059	$ 1,119,179	$ -	$ 220,824
7	$ 58,711	$ 1,266,939	$ 1,236,300	$ 1,208,228	$ 1,177,589	$ -	$ 226,468
8	$ 71,118	$ 1,346,127	$ 1,309,179	$ 1,275,009	$ 1,238,061	$ -	$ 232,275
9	$ 84,803	$ 1,429,282	$ 1,385,439	$ 1,344,479	$ 1,300,636	$ -	$ 238,243
10	$ 99,876	$ 1,516,588	$ 1,465,225	$ 1,416,712	$ 1,365,349	$ -	$ 244,368
11	$ 116,455	$ 1,608,241	$ 1,548,685	$ 1,491,785	$ 1,432,230	$ -	$ 250,646
12	$ 134,669	$ 1,704,440	$ 1,635,976	$ 1,569,771	$ 1,501,307	$ -	$ 257,072
13	$ 154,654	$ 1,805,394	$ 1,727,256	$ 1,650,740	$ 1,572,602	$ -	$ 263,639
14	$ 176,561	$ 1,911,322	$ 1,822,690	$ 1,734,761	$ 1,646,130	$ -	$ 270,339
15	$ 200,548	$ 2,022,449	$ 1,922,448	$ 1,821,901	$ 1,721,900	$ -	$ 277,162
16	$ 226,788	$ 2,139,009	$ 2,026,702	$ 1,912,221	$ 1,799,914	$ -	$ 284,097
17	$ 255,468	$ 2,261,246	$ 2,135,631	$ 2,005,778	$ 1,880,163	$ -	$ 291,129
18	$ 286,789	$ 2,389,413	$ 2,249,420	$ 2,102,624	$ 1,962,631	$ -	$ 298,244
19	$ 320,965	$ 2,523,770	$ 2,368,254	$ 2,202,805	$ 2,047,289	$ -	$ 305,423
20	$ 3,121,984	$ 2,664,589	$ 2,492,327	$ (457,396)	$ (629,658)	$ 242,711	$ (550,574)

NIMCRUT



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WILL 2020 BE THE YEAR OF THE FLIP NIMCRUT?

- NIMCRUT, Net Income with Makeup Charitable Remainder Unitrust, isn't just a mouthful.

- Distribute lesser of unitrust % or actual trust accounting income. If no income, then no distributions.

- If no charitable deduction is taken, then the NIMCRUT will not be subject to the prohibited transaction rules and can engage in business activities with related parties.

- Why use the FLIP? The FLIP provision allows to switch to a mandatory distribution so that "principal" can be taken out. Provides flexibility in case of poor investment returns.

FLIP-NIMCRUT

- It is possible for a Charitable Remainder Unitrust to be set up where payments only need to be made in years that the Charitable Remainder Unitrust receives income.

- In the event that the Charitable Remainder Unitrust does not receive income and does not pay its annual disbursement amount, the amount that was not distributed accumulates in arrears and must be paid in future years.

- Income for the Charitable Remainder Unitrust is based on fiduciary accounting income so it is possible to set up a partnership that essentially blocks the income from being received by the Charitable Remainder Unitrust by retaining its earnings.

- Once the Charitable Remainder Unitrust is ready to start paying its annuity amount, it can release the income by making a distribution from the partnership triggering fiduciary accounting income at the trust level to make up for the payments it missed.

- This allows the Flip-NIMCRUT to build value tax free, until the individuals controlling the disregarded entity decide it is time for the partnership to start paying its earnings.

FLIP-NIMCRUT REQUIREMENTS

- The Charitable Remainder Unitrust can “flip” to a regular Charitable Remainder Unitrust upon a “triggering event,” and thereafter simply pay out a annual percentage of the trust assets. The triggering event must be stated in the trust agreement.

- A triggering event could be a set date or an event, and the occurrence of such event must not be discretionary or under the control of the trustee.

- A triggering event could be the sale of illiquid assets. This would allow a CRUT to hold a subsidiary that holds unmarketable securities. When the donor or another person is ready to flip the NIMCRUT, it can sell the unmarketable securities or a portion thereof.

- The Final Regulations illustrate 7 permissible triggering events, described on the next slide.

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POSSIBLE TRIGGERING EVENTS FOR THE FLIP-NIMCRUT

1. The sale of a non-marketable security - such as a corporation or a limited liability company that may own a promissory note from an unrelated party, real estate, or possibility even marketable securities.

2. Upon the donor's divorce.

3. Upon the donor's marriage.

4. When the income recipient has his or her first child.

5. When the income recipient's father passes away.

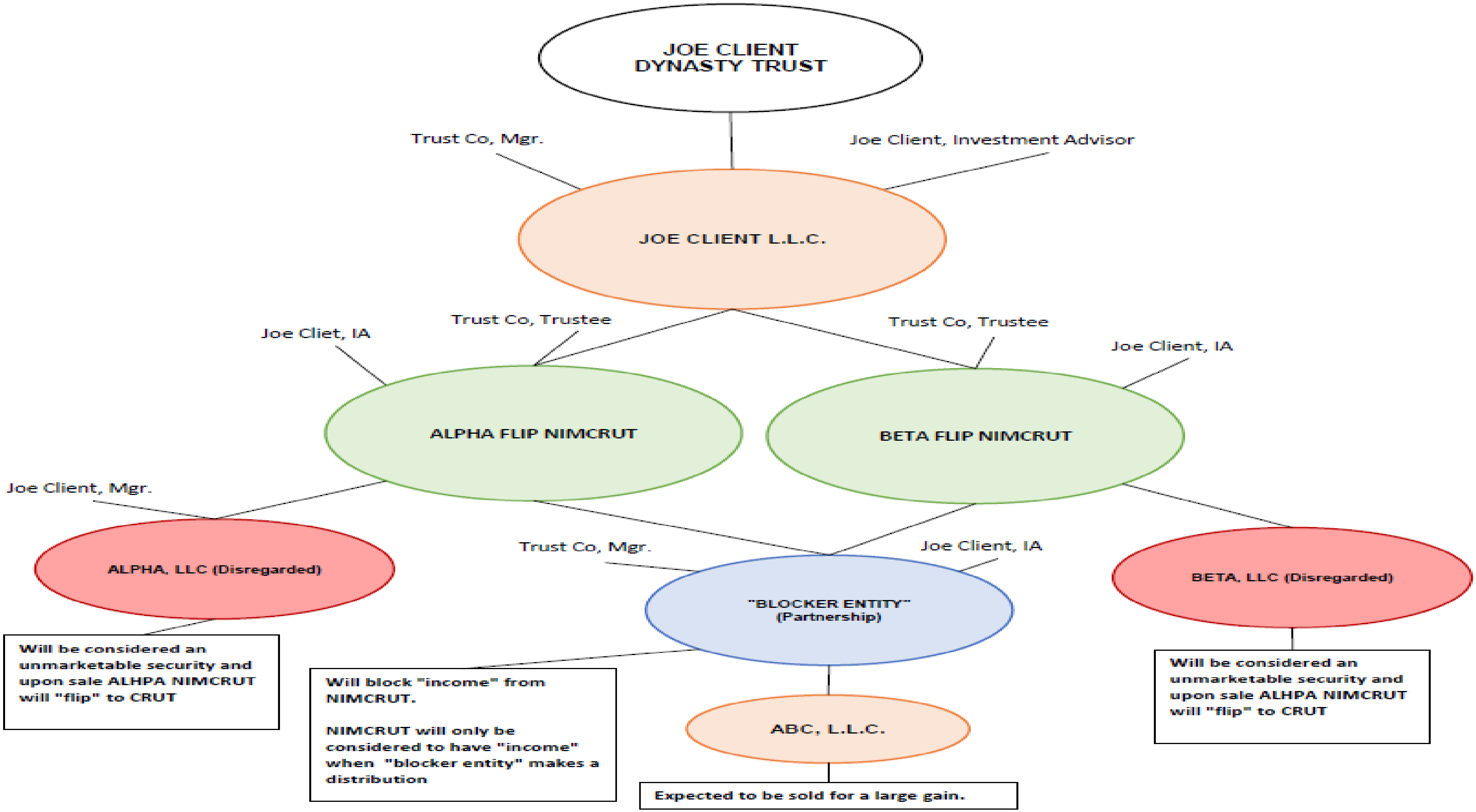
6. The sale of the donor's personal residence.

7. Upon the income recipient reaching a certain age.

It does not appear that these are the only possible triggering events, but these are the only ones listed, so it is safest to stick with the ones that are specifically provided for.

If a donor wants to use a triggering event that is not listed in the Final Regulations the donor should be careful to make sure that no person has control of whether the event is going to happen.

2020, YEAR OF THE FLIP NIMCRUT



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CHARITABLE REMAINDER TRUST SCENARIO

A is considering funding a Charitable Trust with stock of his closely held business, ABC Company, prior to the sale of ABC Company in order to defer the gain on the sale. Be aware that the operating business generates unrelated business taxable income ("UBTI").

ABC Company is worth $1,000,000 and A has $200,000 of basis in ABC Company. A expects that he can receive an 8% rate of return after receiving the cash proceeds from the sale of ABC Company, consisting of 1% ordinary income and 7% capital gains.

A has asked whether the tax deferral under a NIMCRUT or a CRUT will leave him in a better position than if A just invests the after tax proceeds of the sale of ABC Company.

Note: A NIMCRUT cannot distribute principal.

NIMCRUT W/ CHARITABLE DEDUCTION

$1,000,000 Contribution, With Only 1% Per Year In Distributable Income – Distributions received are used to pay income taxes thereon, and then invested at a 6% rate of return. Charitable Deduction taken.

Analysis of Net Income with Makeup Charitable Remainder Unitrust (NIMCRUT)
(20 Year Term 8% Return)

1	2	3	4	5	6	7	8	9
Year	NIMCRUT Balance (Assumes 8% Growth)	Distribution to Family (Lesser of Trust Income or Unitrust Amount with Make Up Distributions in Years in Which Trust Income Exceeds Unitrust Amount)	Taxes on Distribution	Net Distribution to Family	Charitable Tax Deduction Benefit	Total Value Family Receives (Includes Tax Deduction Benefit)	Total Amount Charity Receives at End of Twenty Year Term	Total Amount Received Under NIMCRUT if Distributions are Reinvested at 6% Rate of Return
1	$ 1,000,000	$ 10,000	$ (4,080)	$ 5,920	$ 51,924	$ 57,844	$ -	$ 5,920
2	$ 1,070,000	$ 10,700	$ (4,366)	$ 6,334	$ -	$ 64,179	$ -	$ 12,547
3	$ 1,144,900	$ 11,449	$ (4,671)	$ 6,778	$ -	$ 70,956	$ -	$ 19,944
4	$ 1,225,043	$ 12,250	$ (4,998)	$ 7,252	$ -	$ 78,209	$ -	$ 28,182
5	$ 1,310,796	$ 13,108	$ (5,348)	$ 7,760	$ -	$ 85,968	$ -	$ 37,334
6	$ 1,402,552	$ 14,026	$ (5,722)	$ 8,303	$ -	$ 94,272	$ -	$ 47,481
7	$ 1,500,730	$ 15,007	$ (6,123)	$ 8,884	$ -	$ 103,156	$ -	$ 58,711
8	$ 1,605,781	$ 16,058	$ (6,552)	$ 9,506	$ -	$ 112,662	$ -	$ 71,118
9	$ 1,718,186	$ 17,182	$ (7,010)	$ 10,172	$ -	$ 122,834	$ -	$ 84,803
10	$ 1,838,459	$ 18,385	$ (7,501)	$ 10,884	$ -	$ 133,717	$ -	$ 99,876
11	$ 1,967,151	$ 19,672	$ (8,026)	$ 11,646	$ -	$ 145,363	$ -	$ 116,455
12	$ 2,104,852	$ 21,049	$ (8,588)	$ 12,461	$ -	$ 157,824	$ -	$ 134,669
13	$ 2,252,192	$ 22,522	$ (9,189)	$ 13,333	$ -	$ 171,157	$ -	$ 154,654
14	$ 2,409,845	$ 24,098	$ (9,832)	$ 14,266	$ -	$ 185,423	$ -	$ 176,561
15	$ 2,578,534	$ 25,785	$ (10,520)	$ 15,265	$ -	$ 200,688	$ -	$ 200,548
16	$ 2,759,032	$ 27,590	$ (11,257)	$ 16,333	$ -	$ 217,021	$ -	$ 226,788
17	$ 2,952,164	$ 29,522	$ (12,045)	$ 17,477	$ -	$ 234,498	$ -	$ 255,468
18	$ 3,158,815	$ 31,588	$ (12,888)	$ 18,700	$ -	$ 253,198	$ -	$ 286,789
19	$ 3,379,932	$ 33,799	$ (13,790)	$ 20,009	$ -	$ 273,208	$ -	$ 320,965
20	$ 3,616,528	$ 3,663,139	$ (877,975)	$ 2,785,163	$ -	$ 3,058,371	$ 242,711	$ 3,173,908

NIMCRUT W/ NO CHARITABLE DEDUCTION TAKEN

$1,000,000 Contribution, With Only 1% Per Year In Distributable Income – Distributions received are used to pay income taxes thereon, and then invested at a 6% rate of return.

Analysis of Net Income with Makeup Charitable Remainder Unitrust (NIMCRUT)
(20 Year Term 8% Return)

1	2	3	4	5	6	7	8	9
Year	NIMCRUT Balance (Assumes 8% Growth)	Distribution to Family (Lesser of Trust Income or Unitrust Amount with Make Up Distributions in Years in Which Trust Income Exceeds Unitrust Amount)	Taxes on Distribution	Net Distribution to Family	Charitable Tax Deduction Benefit	Total Value Family Receives (Includes Tax Deduction Benefit)	Total Amount Charity Receives at End of Twenty Year Term	Total Amount Received Under NIMCRUT if Distributions are Reinvested at 6% Rate of Return
1	$ 1,000,000	$ 10,000	$ (4,080)	$ 5,920	$ -	$ 5,920	$ -	$ 5,920
2	$ 1,070,000	$ 10,700	$ (4,366)	$ 6,334	$ -	$ 12,254	$ -	$ 12,547
3	$ 1,144,900	$ 11,449	$ (4,671)	$ 6,778	$ -	$ 19,032	$ -	$ 19,944
4	$ 1,225,043	$ 12,250	$ (4,998)	$ 7,252	$ -	$ 26,284	$ -	$ 28,182
5	$ 1,310,796	$ 13,108	$ (5,348)	$ 7,760	$ -	$ 34,044	$ -	$ 37,334
6	$ 1,402,552	$ 14,026	$ (5,722)	$ 8,303	$ -	$ 42,347	$ -	$ 47,481
7	$ 1,500,730	$ 15,007	$ (6,123)	$ 8,884	$ -	$ 51,232	$ -	$ 58,711
8	$ 1,605,781	$ 16,058	$ (6,552)	$ 9,506	$ -	$ 60,738	$ -	$ 71,118
9	$ 1,718,186	$ 17,182	$ (7,010)	$ 10,172	$ -	$ 70,910	$ -	$ 84,803
10	$ 1,838,459	$ 18,385	$ (7,501)	$ 10,884	$ -	$ 81,793	$ -	$ 99,876
11	$ 1,967,151	$ 19,672	$ (8,026)	$ 11,646	$ -	$ 93,439	$ -	$ 116,455
12	$ 2,104,852	$ 21,049	$ (8,588)	$ 12,461	$ -	$ 105,900	$ -	$ 134,669
13	$ 2,252,192	$ 22,522	$ (9,189)	$ 13,333	$ -	$ 119,233	$ -	$ 154,654
14	$ 2,409,845	$ 24,098	$ (9,832)	$ 14,266	$ -	$ 133,499	$ -	$ 176,561
15	$ 2,578,534	$ 25,785	$ (10,520)	$ 15,265	$ -	$ 148,764	$ -	$ 200,548
16	$ 2,759,032	$ 27,590	$ (11,257)	$ 16,333	$ -	$ 165,097	$ -	$ 226,788
17	$ 2,952,164	$ 29,522	$ (12,045)	$ 17,477	$ -	$ 182,574	$ -	$ 255,468
18	$ 3,158,815	$ 31,588	$ (12,888)	$ 18,700	$ -	$ 201,274	$ -	$ 286,789
19	$ 3,379,932	$ 33,799	$ (13,790)	$ 20,009	$ -	$ 221,283	$ -	$ 320,965
20	$ 3,616,528	$ 3,663,139	$ (877,975)	$ 2,785,163	$ -	$ 3,006,447	$ 242,711	$ 3,121,984

NIMCRUT

No Planning - Investment of Sales Proceeds in Hypothetical Investment Account and Receive Distribution Each Year					
10	11	12	13	14	15
Balance of Hypothetical Investment Account (Assumes 8% Growth)	Distribution (Distribution Net of Taxes Equals After Tax CRUT Payment each year)	Taxes (1.00% of Assets)	Ending Balance of Hypothetical Investment Account	Cummulative Net Distribtuions With 6% Growth	Total Amount Received by Family (Net account + Cummulative Net Distributions) (Columns 13+14= Column 15)
$ 809,600	$ 14,664	$ (8,744)	$ 850,961	$ 14,664	$ 865,624
$ 850,961	$ 15,525	$ (9,190)	$ 894,322	$ 30,188	$ 924,511
$ 894,322	$ 16,436	$ (9,659)	$ 939,773	$ 46,625	$ 986,398
$ 939,773	$ 17,402	$ (10,150)	$ 987,403	$ 64,027	$ 1,051,430
$ 987,403	$ 18,424	$ (10,664)	$ 1,037,308	$ 82,451	$ 1,119,759
$ 1,037,308	$ 19,506	$ (11,203)	$ 1,089,584	$ 101,957	$ 1,191,540
$ 1,089,584	$ 20,652	$ (11,768)	$ 1,144,331	$ 122,608	$ 1,266,939
$ 1,144,331	$ 21,865	$ (12,359)	$ 1,201,654	$ 144,473	$ 1,346,127
$ 1,201,654	$ 23,150	$ (12,978)	$ 1,261,659	$ 167,623	$ 1,429,282
$ 1,261,659	$ 24,510	$ (13,626)	$ 1,324,456	$ 192,133	$ 1,516,588
$ 1,324,456	$ 25,950	$ (14,304)	$ 1,390,158	$ 218,082	$ 1,608,241
$ 1,390,158	$ 27,474	$ (15,014)	$ 1,458,883	$ 245,557	$ 1,704,440
$ 1,458,883	$ 29,089	$ (15,756)	$ 1,530,749	$ 274,646	$ 1,805,394
$ 1,530,749	$ 30,798	$ (16,532)	$ 1,605,878	$ 305,444	$ 1,911,322
$ 1,605,878	$ 32,608	$ (17,343)	$ 1,684,397	$ 338,052	$ 2,022,449
$ 1,684,397	$ 34,525	$ (18,191)	$ 1,766,432	$ 372,577	$ 2,139,009
$ 1,766,432	$ 36,554	$ (19,077)	$ 1,852,115	$ 409,132	$ 2,261,246
$ 1,852,115	$ 38,703	$ (20,003)	$ 1,941,578	$ 447,835	$ 2,389,413
$ 1,941,578	$ 40,978	$ (20,969)	$ 2,034,957	$ 488,813	$ 2,523,770
$ 2,034,957	$ 2,175,776	$ (21,978)	$ (0)	$ 2,664,589	$ 2,664,589

NIMCRUT

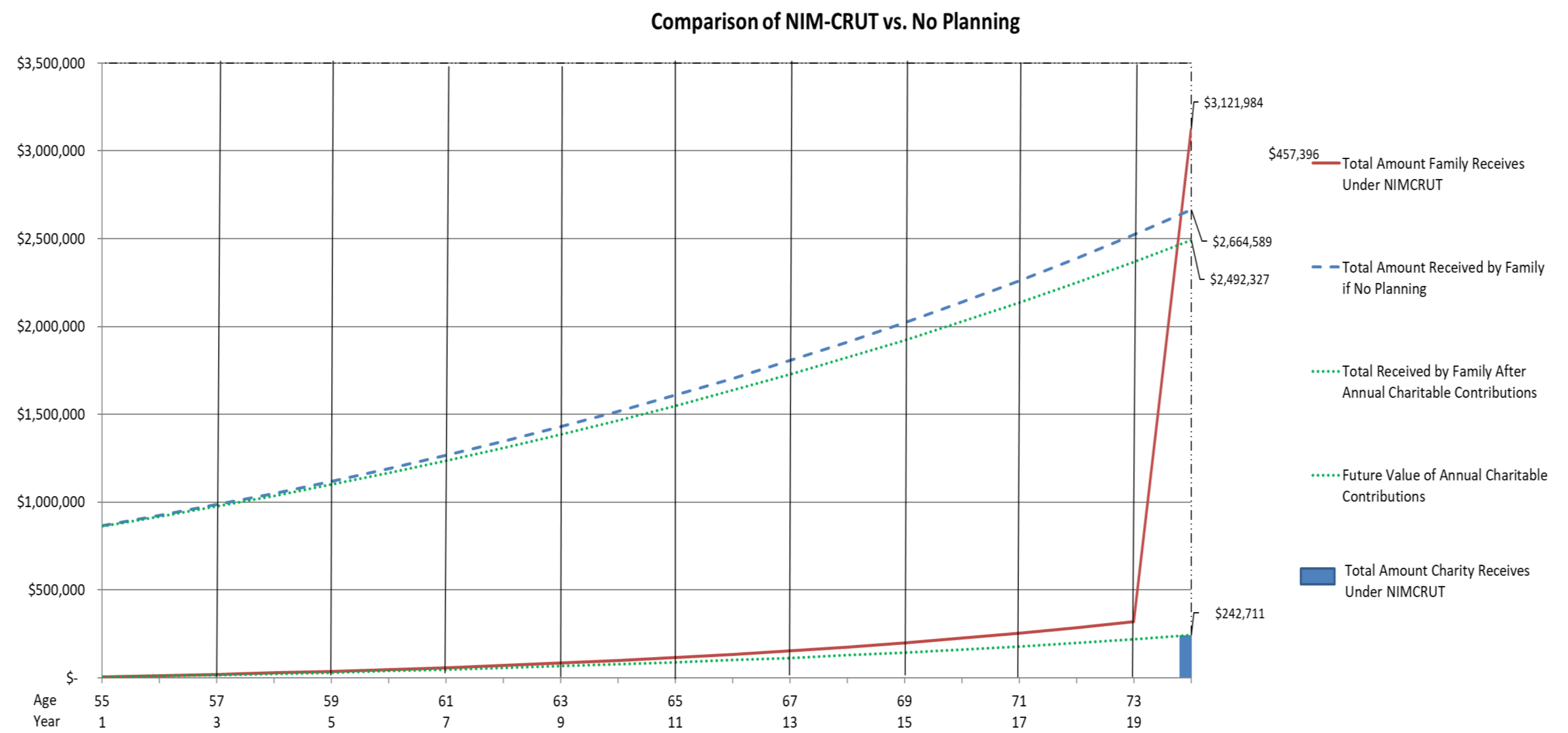
Investment of Net Sales Proceeds in Hypothetical Investment Account and Receive Distributions Each Year Plus Make Charitable Contributions of Equal Present Value						
16	17	18	19	20	21	22
Year	Distribution Received By Family	Payment to Charity	Charitable Deduction Benefit	Cummulative Net Distributions Received by Family	Future Value of Distributions to Charity (Assumes 8% Growth Rate)	Total Benefit Received by Family (Net account + Cummulative Net Distributions - Charity Payment + Value of Charitable Deduction)
1	$ 14,664	$ (5,304)	$ 2,164	$ 14,664	$ 5,304	$ 862,484
2	$ 15,525	$ (5,304)	$ 2,164	$ 30,188	$ 11,032	$ 917,864
3	$ 16,436	$ (5,304)	$ 2,164	$ 46,625	$ 17,218	$ 975,852
4	$ 17,402	$ (5,304)	$ 2,164	$ 64,027	$ 23,899	$ 1,036,565
5	$ 18,424	$ (5,304)	$ 2,164	$ 82,451	$ 31,115	$ 1,100,126
6	$ 19,506	$ (5,304)	$ 2,164	$ 101,957	$ 38,908	$ 1,166,661
7	$ 20,652	$ (5,304)	$ 2,164	$ 122,608	$ 47,325	$ 1,236,300
8	$ 21,865	$ (5,304)	$ 2,164	$ 144,473	$ 56,414	$ 1,309,179
9	$ 23,150	$ (5,304)	$ 2,164	$ 167,623	$ 66,231	$ 1,385,439
10	$ 24,510	$ (5,304)	$ 2,164	$ 192,133	$ 76,833	$ 1,465,225
11	$ 25,950	$ (5,304)	$ 2,164	$ 218,082	$ 88,284	$ 1,548,685
12	$ 27,474	$ (5,304)	$ 2,164	$ 245,557	$ 100,650	$ 1,635,976
13	$ 29,089	$ (5,304)	$ 2,164	$ 274,646	$ 114,006	$ 1,727,256
14	$ 30,798	$ (5,304)	$ 2,164	$ 305,444	$ 128,431	$ 1,822,690
15	$ 32,608	$ (5,304)	$ 2,164	$ 338,052	$ 144,009	$ 1,922,448
16	$ 34,525	$ (5,304)	$ 2,164	$ 372,577	$ 160,833	$ 2,026,702
17	$ 36,554	$ (5,304)	$ 2,164	$ 409,132	$ 179,004	$ 2,135,631
18	$ 38,703	$ (5,304)	$ 2,164	$ 447,835	$ 198,628	$ 2,249,420
19	$ 40,978	$ (5,304)	$ 2,164	$ 488,813	$ 219,822	$ 2,368,254
20	$ 1,960,235	$ (5,304)	$ 2,164	$ 2,449,048	$ 242,711	$ 2,492,327

NIMCRUT

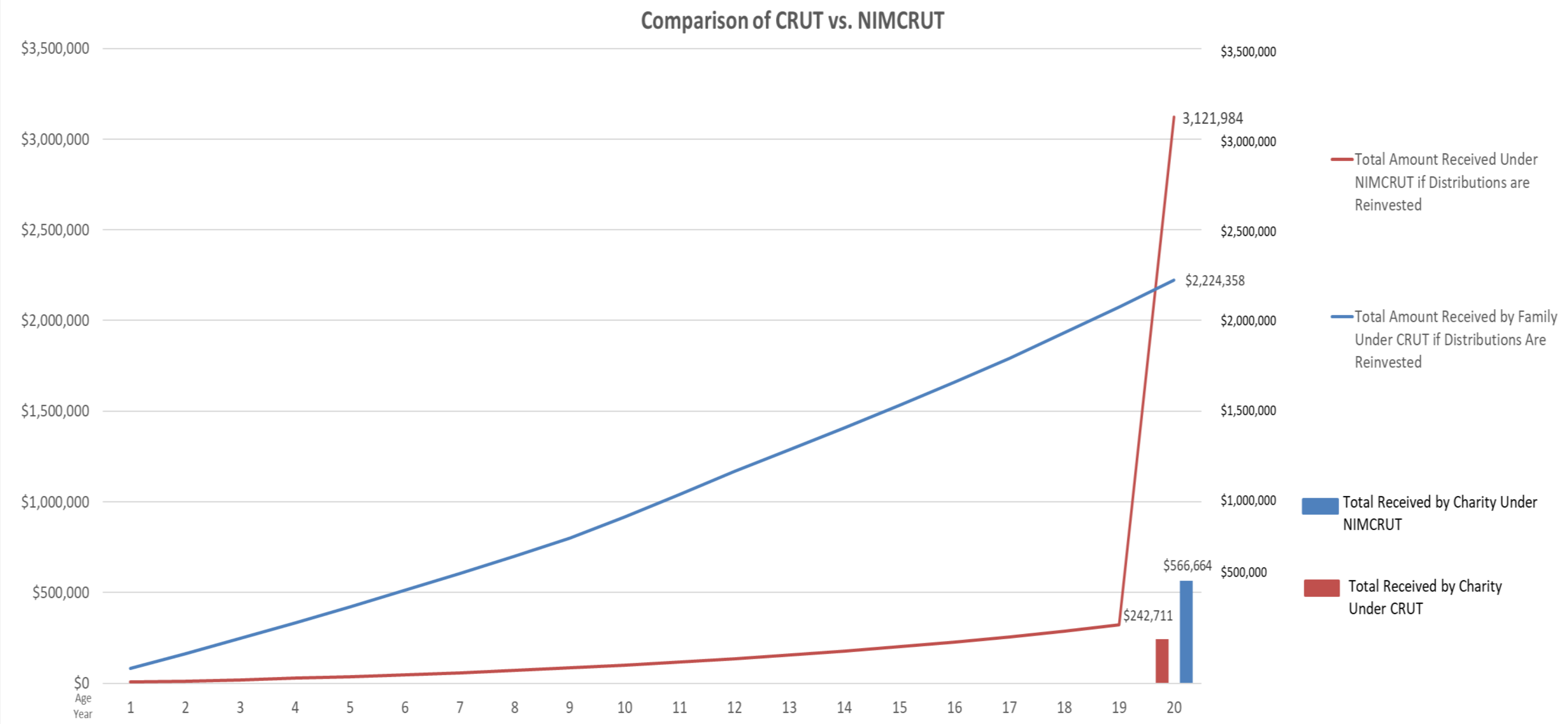
Summary Columns

23	24	25	26	27	28	29	30
Year	Total Received By Family Under NIMCRUT (Column 9)	Total Received by Family Under Hypothetical Investment Account (Column 15)	Total Received by Family Under Hypothetical Investment Account with Charitable Contributions (Column 22)	Difference in Amount Family Receives if No Charitable Planning (Column 25-24)	Difference in Amount Family Receives if Charitable Distributions Made Each Year (Column 26-24)	Total Amount Charity Receives Under NIMCRUT at End of 20 Year Term	Total Tax Savings if NIMCRUT is Used
1	$ 5,920	$ 865,624	$ 862,484	$ 859,704	$ 856,564	$ -	$ 195,064
2	$ 12,547	$ 924,511	$ 917,864	$ 911,964	$ 905,317	$ -	$ 199,888
3	$ 19,944	$ 986,398	$ 975,852	$ 966,453	$ 955,907	$ -	$ 204,876
4	$ 28,182	$ 1,051,430	$ 1,036,565	$ 1,023,248	$ 1,008,383	$ -	$ 210,027
5	$ 37,334	$ 1,119,759	$ 1,100,126	$ 1,082,424	$ 1,062,792	$ -	$ 215,343
6	$ 47,481	$ 1,191,540	$ 1,166,661	$ 1,144,059	$ 1,119,179	$ -	$ 220,824
7	$ 58,711	$ 1,266,939	$ 1,236,300	$ 1,208,228	$ 1,177,589	$ -	$ 226,468
8	$ 71,118	$ 1,346,127	$ 1,309,179	$ 1,275,009	$ 1,238,061	$ -	$ 232,275
9	$ 84,803	$ 1,429,282	$ 1,385,439	$ 1,344,479	$ 1,300,636	$ -	$ 238,243
10	$ 99,876	$ 1,516,588	$ 1,465,225	$ 1,416,712	$ 1,365,349	$ -	$ 244,368
11	$ 116,455	$ 1,608,241	$ 1,548,685	$ 1,491,785	$ 1,432,230	$ -	$ 250,646
12	$ 134,669	$ 1,704,440	$ 1,635,976	$ 1,569,771	$ 1,501,307	$ -	$ 257,072
13	$ 154,654	$ 1,805,394	$ 1,727,256	$ 1,650,740	$ 1,572,602	$ -	$ 263,639
14	$ 176,561	$ 1,911,322	$ 1,822,690	$ 1,734,761	$ 1,646,130	$ -	$ 270,339
15	$ 200,548	$ 2,022,449	$ 1,922,448	$ 1,821,901	$ 1,721,900	$ -	$ 277,162
16	$ 226,788	$ 2,139,009	$ 2,026,702	$ 1,912,221	$ 1,799,914	$ -	$ 284,097
17	$ 255,468	$ 2,261,246	$ 2,135,631	$ 2,005,778	$ 1,880,163	$ -	$ 291,129
18	$ 286,789	$ 2,389,413	$ 2,249,420	$ 2,102,624	$ 1,962,631	$ -	$ 298,244
19	$ 320,965	$ 2,523,770	$ 2,368,254	$ 2,202,805	$ 2,047,289	$ -	$ 305,423
20	$ 3,121,984	$ 2,664,589	$ 2,492,327	$ (457,396)	$ (629,658)	$ 242,711	$ (550,574)

NIMCRUT



Comparison of NIM-CRUT vs. No Planning
$3,500,000
$3,000,000
$2,500,000
$2,000,000
$1,500,000
$1,000,000
$500,000
$-
Age 55 57 59 61 63 65 67 69 71 73
Year 1 3 5 7 9 11 13 15 17 19
$3,121,984
$457,396
$2,664,589
$2,492,327
$242,711
Total Amount Family Receives Under NIMCRUT
Total Amount Received by Family if No Planning
Total Received by Family After Annual Charitable Contributions
Future Value of Annual Charitable Contributions
Total Amount Charity Receives Under NIMCRUT



Comparison of CRUT vs. NIMCRUT
$3,500,000
$3,000,000
$2,500,000
$2,000,000
$1,500,000
$1,000,000
$500,000
$0
Age
Year
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20
3,121,984
$2,224,358
$566,664
$242,711
Total Amount Received Under NIMCRUT if Distributions are Reinvested
Total Amount Received by Family Under CRUT if Distributions Are Reinvested
Total Received by Charity Under NIMCRUT
Total Received by Charity Under CRUT

SELF-DEALING AND FLIP-NIMCRUTS

- A number of Private Letter Rulings state that “allowed” really means “taken” in the context of the charitable deduction.
- Despite issuing Private Letter Rulings on this as recent as 2017, the IRS is now reluctant to issue Private Letter Rulings on this topic, and it is unclear whether the IRS will take the position that “allowed” really means “taken.”
- Thus, if the donor wants to avoid the application of the self-dealing rules, the donor should contribute funds through an entity that is not required to take a charitable deduction, such as a dynasty trust that specifically authorizes the creation of a charitable remainder trust.
- Due to the fact that the private foundation rules generally apply to charitable remainder trusts, it is important to make sure that disqualified persons do not transact with the entity directly. It may be possible to create subsidiaries that are controlled by specially designed trusts that have less than 35% of the beneficial interest being held or made available to disqualified persons.

Topic #9:

Integrating Estate Planning with the Use of Charitable Remainder Trusts

Using a Dynasty Trust and Underlying NIMCRUT

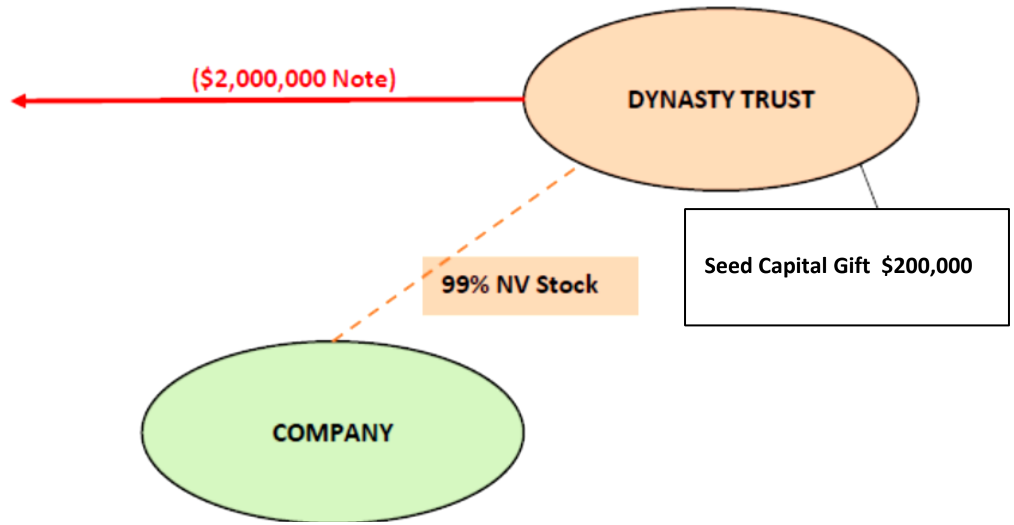
Estate, Tax and Charitable Planning for a Liquidity Event
(Assume Company Now Worth $3,000,000 and will be Worth $5,000,000 When Sold)

Year One

* Establish Dynasty Trust

* Fund Dynasty Trust with Seed Capital Gift

* Sell 99% Non-Voting Stock in Company to Dynasty Trust for $2M note (assume 33% discount)



Present Value of Company **$3,000,000**

Future Value of Company **$5,000,000**

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Using a Dynasty Trust and Underlying Charitable Entity (Cont.)

(Client Would Like to Defer Income Tax and Avoid Federal Estate Tax)

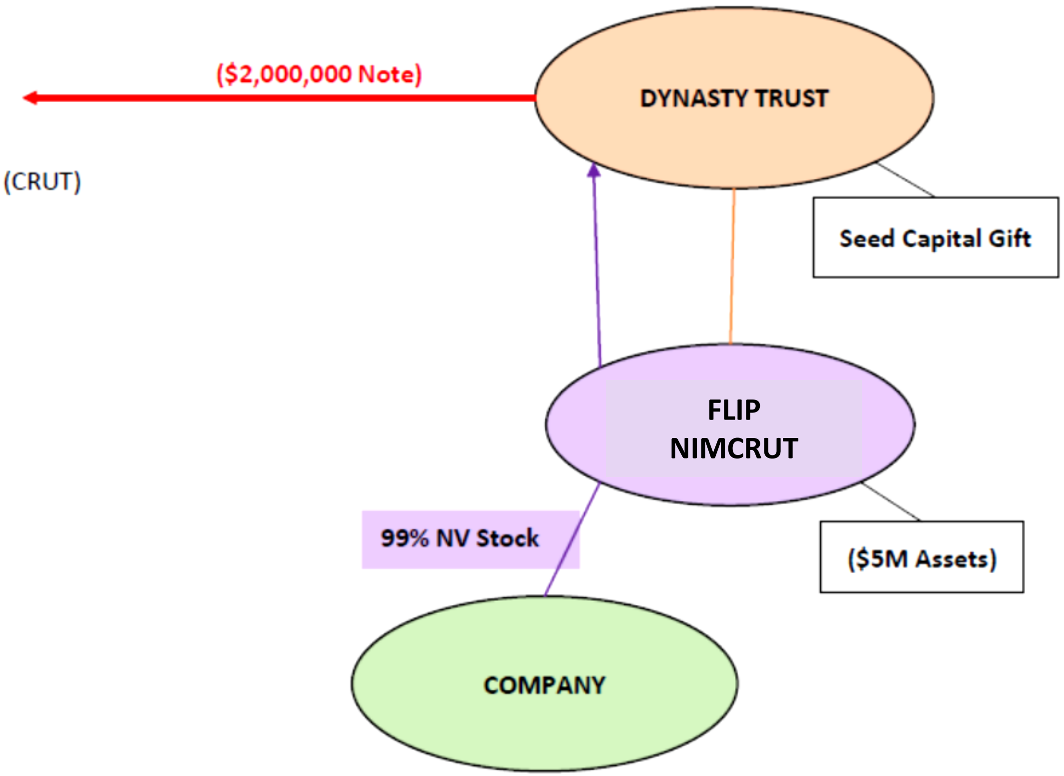
Year Three

* Dynasty Trust donates stock to Charitable Remainder Unitrust (CRUT) shortly before stock is sold.

FLIP NIMCRUT has $5,000,000.

* CRUT has $5,000,000.

* Will pay no income tax for first 14 years.



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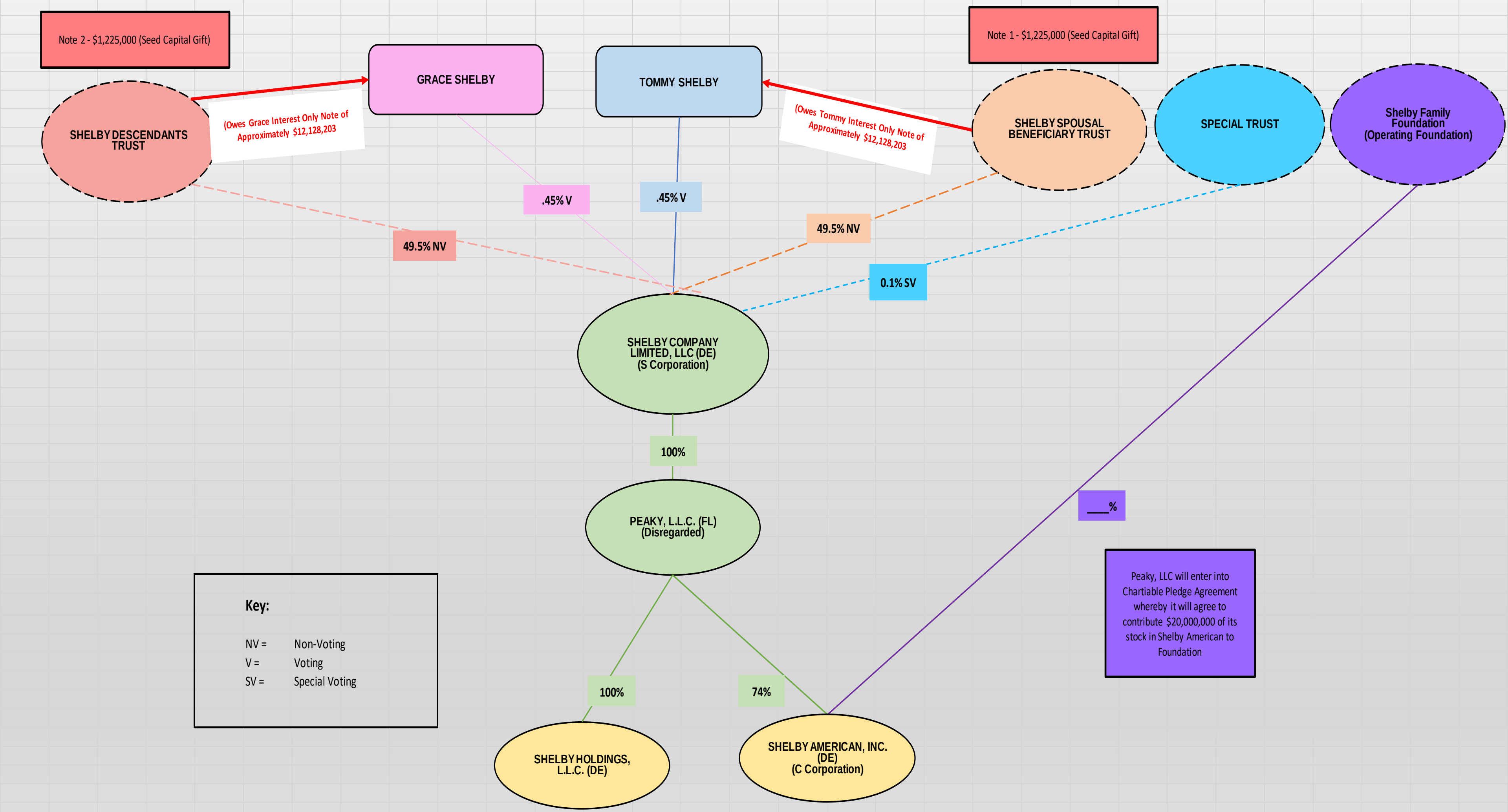
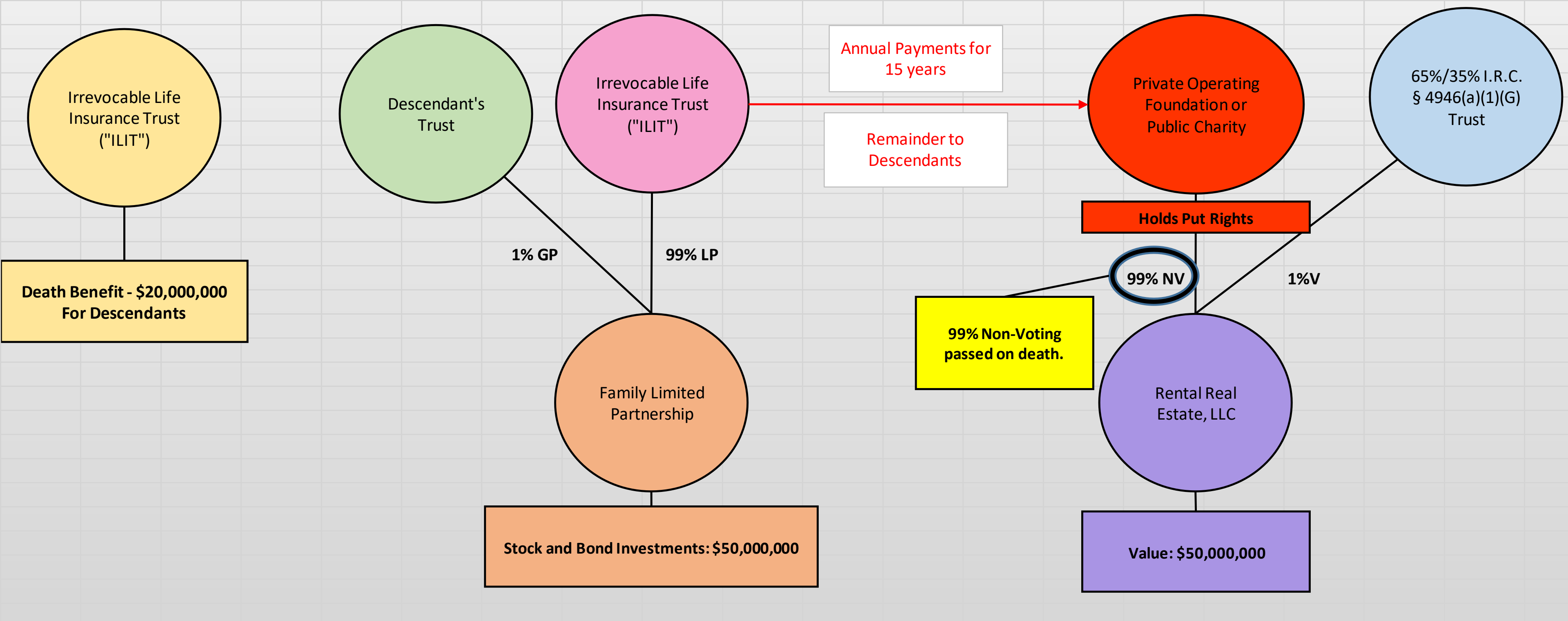
Installment Sale to Intentionally Defective Grantor Trust (IGDT) / Donation to Charity



Zero Estate Tax Plan for Charitable Families, Alternative Structure



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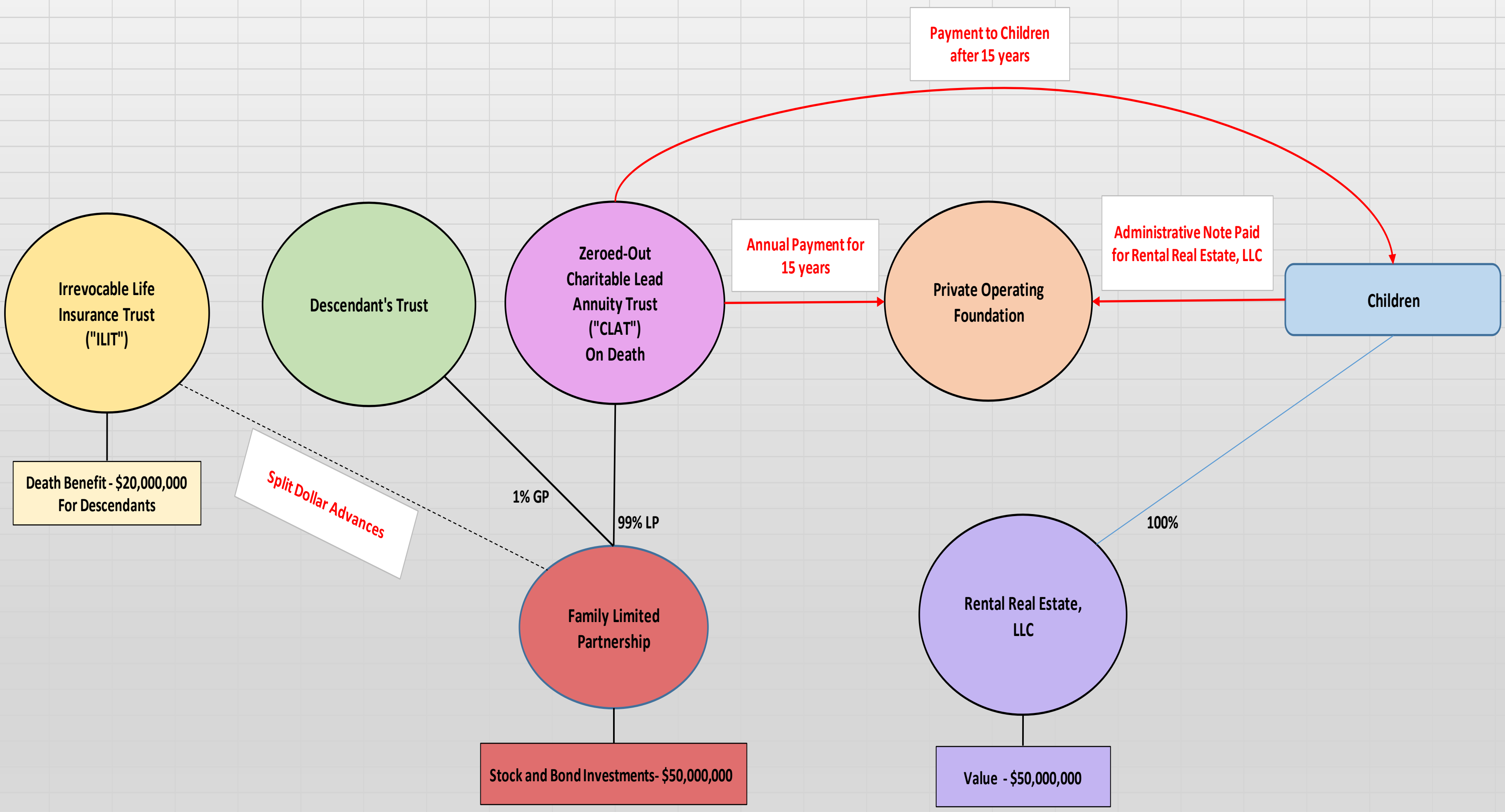
Zero Estate Tax Plan for Charitable Families **With Administrative Note Purchase**



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RMD CALCULATOR WITH CHARITABLE DISTRIBUTIONS

RMD Summaries

Alter Summary Columns

RMD #	Grantor Age	Life Expec-tancy	Year of Death	Growth Rate	Current Value	Illustrated End Value	RMD Starting Age	1st Year RMD	Yr 1 RMD Amount	Max Charitable Donation	Tax Savings From Charitable	Cumulative Taxes on RMD
1	70	15.4	16	7.50%	$1,000,000	$1,745,712	73	2027	$46,879	$105,000	$354,744	$0

Show your clients when they must start taking distributions, the amount of their required distributions, their net after-tax distribution, and the impact of making direct qualified charitable distributions (QCDs).

Detail your client's annual RMDs, charitable donations, taxes and expected growth.

RMD 1

Show Every - 1 + Year(s) Year Of Death First Year RMD

Year	Year #	Grantor Age	Probability Survival To Year	Beginning Value	Growth	RMD Percentage	RMD Amount	Tax on RMD	Net After Taxes	End Value	Charitable Donation	Cumulative To Charity	Distribution After Charity	Cumulative After Charity	Tax on Net	Cumulative Taxes On Net	Tax Savings From Charity Transfer	Net After Taxes	Cumulative Net After Taxes	End Value (same as left)
2024	1	70	100.00%	$1,000,000.00	$75,000.00	0.00%	$0.00	$0.00	$0.00	$1,075,000.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1,075,000.00
2025	2	71	98.04%	$1,075,000.00	$80,625.00	0.00%	$0.00	$0.00	$0.00	$1,155,625.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1,155,625.00
2026	3	72	95.95%	$1,155,625.00	$86,671.88	0.00%	$0.00	$0.00	$0.00	$1,242,296.88	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1,242,296.88
2027	4	73	93.70%	$1,242,296.88	$93,172.27	3.77%	($46,879.13)	($16,407.69)	($30,471.43)	$1,288,590.02	($46,879.13)	$46,879.13	$0.00	$0.00	$0.00	$0.00	$16,407.69	$0.00	$0.00	$1,288,590.02
2028	5	74	91.30%	$1,288,590.02	$96,644.25	3.92%	($50,532.94)	($18,697.19)	($31,835.75)	$1,334,701.33	($50,532.94)	$97,412.07	$0.00	$0.00	$0.00	$0.00	$18,697.19	$0.00	$0.00	$1,334,701.33
2029	6	75	88.73%	$1,334,701.33	$100,102.60	4.07%	($54,256.15)	($20,074.78)	($34,181.38)	$1,380,547.78	($54,256.15)	$151,668.22	$0.00	$0.00	$0.00	$0.00	$20,074.78	$0.00	$0.00	$1,380,547.78
2030	7	76	86.00%	$1,380,547.78	$103,541.08	4.22%	($58,250.96)	($21,552.86)	($36,698.11)	$1,425,837.90	($58,250.96)	$209,919.18	$0.00	$0.00	$0.00	$0.00	$21,552.86	$0.00	$0.00	$1,425,837.90
2031	8	77	83.09%	$1,425,837.90	$106,937.84	4.37%	($62,263.66)	($23,037.56)	($39,226.11)	$1,470,512.07	($62,263.66)	$272,182.85	$0.00	$0.00	$0.00	$0.00	$23,037.56	$0.00	$0.00	$1,470,512.07
2032	9	78	80.00%	$1,470,512.07	$110,288.41	4.55%	($66,841.46)	($24,731.34)	($42,110.12)	$1,513,959.03	($66,841.46)	$339,024.30	$0.00	$0.00	$0.00	$0.00	$24,731.34	$0.00	$0.00	$1,513,959.03
2033	10	79	76.70%	$1,513,959.03	$113,546.93	4.74%	($71,751.61)	($26,548.10)	($45,203.52)	$1,555,754.34	($71,751.61)	$410,775.92	$0.00	$0.00	$0.00	$0.00	$26,548.10	$0.00	$0.00	$1,555,754.34
2034	11	80	73.22%	$1,555,754.34	$116,681.58	4.95%	($77,017.54)	($28,496.49)	($48,521.05)	$1,595,418.38	($77,017.54)	$487,793.46	$0.00	$0.00	$0.00	$0.00	$28,496.49	$0.00	$0.00	$1,595,418.38
2035	12	81	69.54%	$1,595,418.38	$119,656.38	5.15%	($82,238.06)	($30,428.08)	($51,809.98)	$1,632,836.70	($82,238.06)	$570,031.52	$0.00	$0.00	$0.00	$0.00	$30,428.08	$0.00	$0.00	$1,632,836.70
2036	13	82	65.68%	$1,632,836.70	$122,462.75	5.41%	($88,261.44)	($32,656.73)	($55,604.71)	$1,667,038.01	($88,261.44)	$658,292.96	$0.00	$0.00	$0.00	$0.00	$32,656.73	$0.00	$0.00	$1,667,038.01
2037	14	83	61.65%	$1,667,038.01	$125,027.85	5.65%	($94,182.94)	($34,847.69)	($59,335.25)	$1,697,882.92	($94,182.94)	$752,475.90	$0.00	$0.00	$0.00	$0.00	$34,847.69	$0.00	$0.00	$1,697,882.92
2038	15	84	57.48%	$1,697,882.92	$127,341.22	5.95%	($101,064.46)	($37,393.85)	($63,670.61)	$1,724,159.68	($101,064.46)	$853,540.36	$0.00	$0.00	$0.00	$0.00	$37,393.85	$0.00	$0.00	$1,724,159.68
2039	16	85	53.11%	$1,724,159.68	$129,311.98	6.25%	($107,759.98)	($39,871.19)	($67,888.79)	$1,745,711.68	($107,759.98)	$961,300.34	$0.00	$0.00	$0.00	$0.00	$39,871.19	$0.00	$0.00	$1,745,711.68
Totals:					$1,707,012.02		$961,300.34	$354,743.54	$606,556.80		$961,300.34		$0.00		$0.00		$354,743.54	$0.00		

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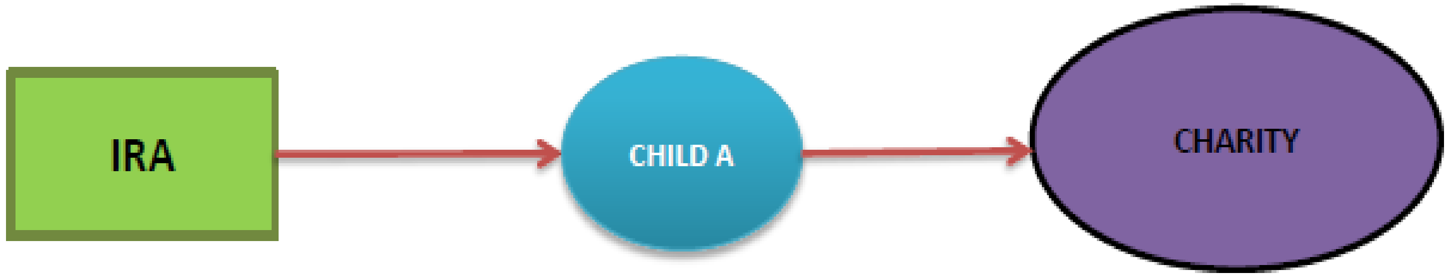
IRA TO CHILD A - ALLOWS DISCLAIMER TO CHARITY

SCENARIO H

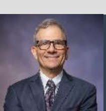


If Child A disclaims no tax triggered.

1. Charity cannot be private foundation over which the disclaimant is trustee or manager with power to direct the foundation's assets.
2. Diclaimant may recuse themselves from decision making power via a "Chinese Wall" provision - (please...no MSG) to avoid disclaimer being deemed invalid.
3. Disclaimant should consider recusing themselves from decisions over donor advised funds. One PLR has held that a disclaimer in favor of donor-advised fund does render disclaimer invalid due to the fact that the disclaimant is merely an advisor and cannot "direct" distributions. PLR 200518012.

Possible clause to faciliate the above:

I intend to have $500,000 be paid to the A Museum, located in Any City, Florida, provided that it is a 501 (c)(3) organization, and have been advise that it would preferable to fund such devise from my IRA. I have therefore named my son, Eric as beneficiary of my IRA B, with such charity being the alternate beneficiary. I request that my son determine whether it works best for federal income tax and estate tax planning purposes to disclaim such devis so that the IRA can pass directly to the Museum, or to receive some or all of such devise as an inherited IRA, and to make contributions to the Museum individually to receive income tax deductions. I recognize that this provision is not binding upon my said son.



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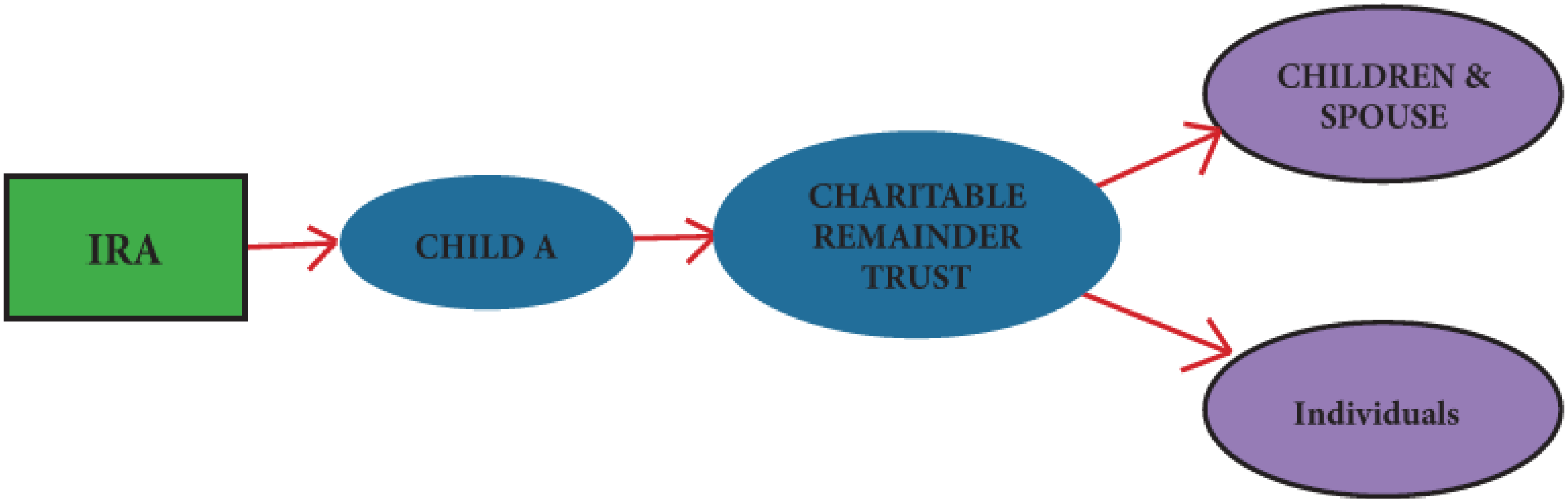
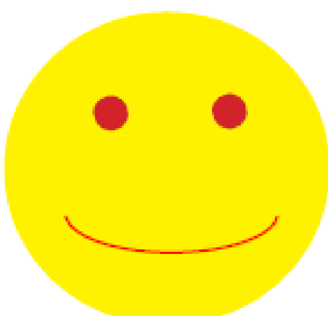
IRA DISCLAIMABLE TO CHARITABLE REMAINDER TRUST

SCENARIO K





Payable to A, upon disclaimer to Charitable Remainder Trust which will make lifetime payments to children and spouse of Child A, remainder to Charity.

No Income Tax paid on benefits payable to Charitable Remainder Trust

Disclaimant cannot be an income beneficiary of the Charitable Remainder Trust, unless the disclaimant is the participant's surviving spouse.

Distributions to individuals will be carried out on a "worst first" basis.

Charitable Planning with IRA and Pension Accounts

The 10-Year Payout Rule requirement under the SECURE Act has already made charitable planning a much bigger part of any conversation with charitably inclined individuals who have large pension or IRA holdings.

A great many families are already contributing to donor controlled or independent charitable organizations, or have established arrangements to assure that charities will inherit upon specified circumstances.

These families can review how they will leave assets to charity, taking into account that individuals who receive the benefit of non-spousal IRA inheritances or properly drafted "Stretch Trusts" for their benefit will have to pay income tax in the 11th year following the date of the IRA or pension holder's death.

The charitable alternatives include outright dispositions to independent charities, dispositions to donor advised funds and family foundations that can result in charitable accounts and investments that can be directed to charities by family members or friends over a long period of time, income tax-free dispositions to family foundations that can engage in private and public investments and activities and customized charitable conduct, with reasonable compensation paid to family members, and charitable remainder trusts which can be expected to provide well over 90% of value to family members and provide tax deferral over a Stretch period that can be for 20 years, or longer, if based upon the life expectancy of one or more individuals.

Charitable Planning with IRA and Pension Accounts, Cont'd

Each of the above alternatives is described below in more detail.

1. Passing Benefits Directly to Charity. The simplest and most direct method of charitable giving with IRA and pension accounts is to make a 501(c)(3) charity the beneficiary of the IRA or pension account on the beneficiary designation form.

   This will permit the IRA or pension account to pass directly to a bona fide IRC Section 501(c)(3) charity on the death of the IRA owner or Plan Participant, and very little will need to be done after death to facilitate this tax-free transfer.

   An exception from an income tax standpoint would be that a Section 501(c)(3) organization must pay income tax on any Unrelated Business Taxable Income, which would occur if the IRA or pension owned an active trade or business that produced Unrelated Business Taxable Income that was distributed to the charity. The vast majority of IRA and pension accounts do not have active trades or businesses that would generate Unrelated Business Taxable Income, or may qualify for the Section 199A 20% deduction on such income if appropriate circumstances exist.

   Another exception is that a 501(c) private foundation or private operating foundation would be subject to a tax of 1.39% on its net investment income. Previously this tax would either be 1% or 2% of net investment income depending on the operations of the private foundation, but the SECURE Act simplified this tax by making it apply at a flat 1.39% rate.

   Natalie Choate has indicated that some charities or plan sponsors may find it problematic to have the applications filled out, and to make the payments directly to one or more charities, so that it may be easier to name the donor advised fund affiliated with the Plan Administrator, and to have family members or advisors then direct the monies to the selected charities. This indirect payment method should work fine, unless any person who has the authority to direct the charitable payments under the donor advised fund acts contrary to the wishes of the deceased Plan Participant.

Charitable Planning with IRA and Pension Accounts, Cont'd

If there is a complicated formula, then the Plan Sponsor may not be comfortable complying with the terms of the Trust Agreement or Will, or the instructions of the trustee or personal representative. For example, if a trust provides that "an amount equal to 15% of the net value of the trust will be payable to charity, or 40%, if I am not cohabitating with my present significant other," the Plan Sponsor will not want to have responsibility for whether the proper amount was paid out. The alternative is to provide that "such amounts as is determined by the trustee to satisfy such provision shall be communicated to the Plan Sponsor, as a devise of a specific dollar amount, and the Plan Sponsor shall have no responsibility to determine whether such amount is accurate, and may rely upon a statement signed by the trustee of the trust in the presence of two witnesses and a Notary Public, or the order of a court of competent jurisdiction specifying the amount being transferred.

2. <u>Disclaimer to Charity</u>. The same income tax result discussed above can occur if the IRA is made payable to an individual or the trustee of a trust who disclaims the disposition within 9 months of the Plan Participant's death, where the alternate beneficiary is one or more charities. This will be treated in exactly the same way as would apply if the charities were the direct beneficiary.

This can allow a high income tax bracket beneficiary, or a trustee acting for that beneficiary, to decide whether to accept an entire inherited IRA, or to allow some or all of the IRA to pass to a pre-named charity, donor advised fund, or charitable foundation.

For example, an IRA might be payable to a trust for the benefit of a child, his descendants, and designated charities, with the trustee having the power to disclaim the disposition. If the alternate beneficiary under the IRA beneficiary designation is the individual, then the individual may also elect to receive the disposition or disclaim it, and if the individual disclaims the disposition, then it can pass to a preselected charity named in the beneficiary designation as the second contingent beneficiary.

Charitable Planning with IRA and Pension Accounts, Cont'd

High income beneficiaries who may be inclined to donate more than the permitted percentage of adjusted gross income to charity may wish to speak with their parents, or other individuals who might leave IRA benefits to them, about these arrangements.

When disclaiming an interest in an IRA it is important that the disclaimant does not control the charity that will receive the funds as a result of the disclaimer. The disclaimant has to give up all control over the disclaimed interest. Pursuant to PLR 9008011, the disclaimant's spouse or children would be permitted to control the charity that receives the IRA proceeds. Alternatively, the disclaimed property could be held in a separate account with the charity that the disclaimant has no control over.

Further, if the disclaimer results in the IRA proceeds going to a charitable lead annuity trust, then the disclaimant is not allowed to be a beneficiary of the charitable lead annuity trust.[1]

Our book discusses the use of multiple disclaimers to maximize flexibility for such arrangements. For example, the charitable individual may want to be able to have a trustee decide whether he or she will be the primary beneficiary of a trust that will receive all or part of the IRA distributions within 11 years of the Plan Participant's death, or to be the lifetime beneficiary of a Charitable Remainder Trust, or to have the benefit pass all or in part to charity.

3. To an Estate or Trust That Provides for Charity. This can be a somewhat complicated area, as further described below, but provides for the most flexibility and contingency planning.

For example, a wealthy taxpayer may provide that his IRA will pass via his Living Trust to charity, but in an amount not exceeding 15% of the total net worth passing as the result of his death, or an amount sufficient so that his descendants receive at least $10,000,000. In addition, this individual may wish to permit his children, to serve as the independent trustees, to elect to have more go to charity from their separate shares, if they wish to do so. All of this can be provided under a Trust Agreement or Last Will and Testament where the beneficiary of the IRA is the trust or the individual's estate. If the beneficiary of the IRA is the estate, then the IRA will have to be distributed in 5 years rather than 10 years.

[1] *Christansen v. Commissioner*, 130 TC 1 (2008)

Charitable Planning with IRA and Pension Accounts, Cont'd

In the past having an IRA payable to an estate was a bigger problem because the beneficiary could potentially have received the IRA amounts over his or her lifetime, but the only negative not is that all IRA assets must be distributed in 5 years. If an IRA is left to the decedent's estate and the decedent leaves a surviving spouse that is the sole beneficiary of the decedent's estate, the surviving spouse could potentially be treated as the designated beneficiary of the IRA. Many companies managing IRA accounts will require a private letter ruling before rolling the IRA monies into an inherited IRA for the spouse, but this can be a costly process. For many individuals, it will not be worthwhile to incur the expense of obtaining a PLR simply to stretch the annuity over the surviving spouse's lifetime, since the filing fee alone for such a PLR as of 2020 would be over $20,000. Fortunately, an IRA may be transferred after death to a new custodian that may be more willing to honor the beneficiary designation with a court order, which will be much less expensive and time consuming than obtaining an IRS Private Letter Ruling.

The disadvantages of naming an estate as beneficiary are described below.

As a general overview, a great many Plan Participants will prefer to have formulas and conditions that will apply to determine if and how much charities will receive under an estate plan, and will not want to be inconvenienced with having direct or somewhat complicated beneficiary designation arrangements that might run amuck if and when they ever change advisors, or update beneficiary designations. By having the beneficiary of an IRA be a trust that is established during the life of the Plan Participant, or as a Testamentary Trust upon his or her death, the specific formulas and contingencies, along with customized language that can provide limitations and detailed instructions to carry out charitable and non-charitable intentions are provided in the trust document, and can be modified and developed in future codicils and amendments without having to change the beneficiary designation.

When an IRA or pension account is payable to an estate or trust, the income is carried out into the estate or trust, but the estate or trust will receive up to a 100% income tax deduction under Internal Revenue Code Section 642(c), if amounts equal to the amounts that passed from the IRA or pension pass to charity within the applicable deadline.

Charitable Planning with IRA and Pension Accounts, Cont'd

In order to meet the above deadline, a trust must make the applicable distribution before the end of the tax year following the year in which the IRA or plan distribution is received.[2]

For an estate, the distribution will be considered as having been made by such deadline, as long as the amounts received by the estate are "set aside" in a proper manner, and eventually paid to charity before the estate is closed. That is the one advantage of making the estate of the Plan Participant the beneficiary of an IRA or pension account that will be going in whole or in part to charity.

For the 642(c) deduction to apply, it is crucial that the Will or Trust document specifically authorizes or requires the trustee or personal representative to make payments to charity. It is not sufficient for this provision to be added by a Trust Protector or court order after the death of a testator or once a revocable or other trust becomes irrevocable. This rule does not apply to income passing through an estate or trust from a pension IRA account to charity.

It is important to note that money received from an IRA is not subject to the 3.8% Medicare Tax, but if IRA proceeds are distributed to a trust, the trust may eventually hold undistributed net investment income, which could be subject to the 3.8% Medicare tax.

Other disadvantages can include loss of the ability to use the 10-Year Rule, if the estate does not "pour" the IRA or pension benefit into a trust or to a person that would so qualify, or the loss of a lifetime payout for a disabled or chronically ill individual where the estate does not "pour" the benefit to an Accumulation Trust that would qualify for such an individual, or to the individual themselves.

[2] Treasury Regulation Section 1.642(c)-1(b)(1)

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Charitable Planning with IRA and Pension Accounts, Cont'd

4. <u>When Does the September 30 After Year of Death Rule Impact the Above Planning</u>? There are numerous examples of when charities and other non-individuals must not be beneficiaries, or in some cases even potential future beneficiaries, of trusts that would otherwise qualify for a lifetime payout for a surviving spouse, or certain other categories of beneficiaries,[4] or at least the 10-Year Rule would apply.

   In these situations, the "See-Through Stretch Trust" rules can apply to the portions of distributions passing to separate, or, in some cases, combined trusts for the Designated Beneficiary, or plan benefit rights can pass directly through to such individuals or Gift to Minors Act accounts, or possible other vehicles for such individuals, as long as the charities and other non-persons[5] are completely paid out or otherwise eliminated as beneficiaries, so that they cannot receive anything after the September 30 following the date of death of the Plan Participant.

   Here are the primary circumstances that will apply under most estate and trust plans:

   1. Pay a specified amount or percentage to charity shortly after the death of the Plan Participant.

      A. <u>Where Charity Will Receive a Specific Amount or Percentage, Which Can Be Satisfied On or Before the September 30 Following the Date of the Plan Participant's Death</u>. This will apply in most situations, and trusts and wills can be drafted accordingly. If it is not clear what portion of an estate or trust will pass to the charitable beneficiary or beneficiaries by the September 30th following the year of the Plan Participant's death, then the trustee or personal representative may be able to set aside a "combined charitable and individual" subtrust that will receive a portion of the plan benefits and the 5-Year Rule can apply to that portion. If that portion all goes to charity, and IRC Section 642(c) applies, then there will be no tax on the amounts distributed from the IRA or pension to the subtrust.

[4] An individual not more than 10 years younger than the Plan Participant, a disabled or chronically ill beneficiary, if the Plan Participant had reached his or her Required Beginning Date before death and the "Shadow Rule" applies, when the beneficiary is a minor child of the deceased Plan Participant, so that the Life Expectancy Rule may apply until the child reaches the age of majority, after which the 10-Year Payout Rule would apply.

[5] And in some situations, no person older than the applicable Designated Beneficiary.

Charitable Planning with IRA and Pension Accounts, Cont'd

B. The Interest Going to Charity or to Non-Charity Can Be Pecuniary or Fractional. Even when the charitable and non-charitable interests in an IRA or pension are to be directly segregated or divided before September 30 of the year following the Plan Participant's death, the question as to whether the distribution is couched in terms of being a pecuniary or fractional amount, which goes to charity or to the non-charitable beneficiaries will not matter. In other words, it is fine to provide a pecuniary disposition (eg. the charity or non-charity will receive $400,000, and the other parties will receive the remainder of the IRA assets), or a fractional (eg. the charity or non-charity will receive 18% of the greater of the net amount of the IRA or pension or 8% of the total net value of the IRA passing upon death, with the remaining assets going to the charity or non-charity beneficiaries.

Fractional verses pecuniary clause differences occur is when a disclaimer is used to provide charity with a fractional portion of the IRA, in which case, the funds that are to go to charity must be segregated from the funds that can be used to benefit the non-charitable beneficiary. Additionally, when the IRA is payable to a trust before it goes to the charitable beneficiary, then a fractional share to charity will generally work well, but extra care needs to be taken with a pecuniary share following the Participant's death.

2. Charitable Gift Annuities. Charitable Gift Annuities allow for a gift to be made to charity followed by the charity paying the donor a fixed annuity for the rest of the donor's life. The donor can tax a deduction for the amount of the donation that is expected to the charity upon the death of the beneficiary and the beneficiary will receive an annuity with part of the payments being considered income and another part being considered a return of capital.

Due to the structure of a Charitable Gift Annuity, the non-charitable beneficiary will be limited to receiving the annuity amount each year, regardless of the beneficiary's needs.

An IRA owner can contribute his or her required minimum distribution amounts to the Charitable Gift Annuity. It is important that the IRA plan issues the money directly to the charity and that the donor uses funds from a traditional IRA. Donations from SEP IRAs will not provide a benefit.

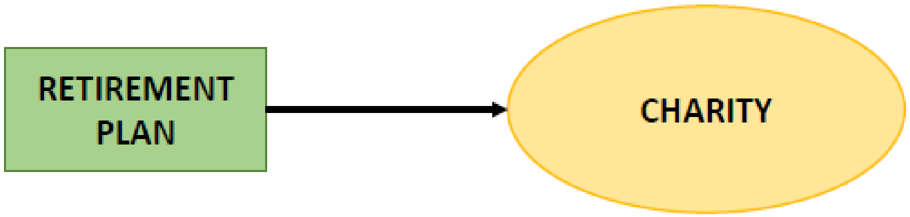
Charitable Planning with IRA and Pension Accounts, Cont'd

A Charitable Gift Annuity can be funded with IRA proceeds on the death of the IRA owner. The IRA proceeds would be paid directly to a charity and a designated non-charitable beneficiary would receive a certain amount of funds from the charity each year, using a formula based on the beneficiary's lifetime.

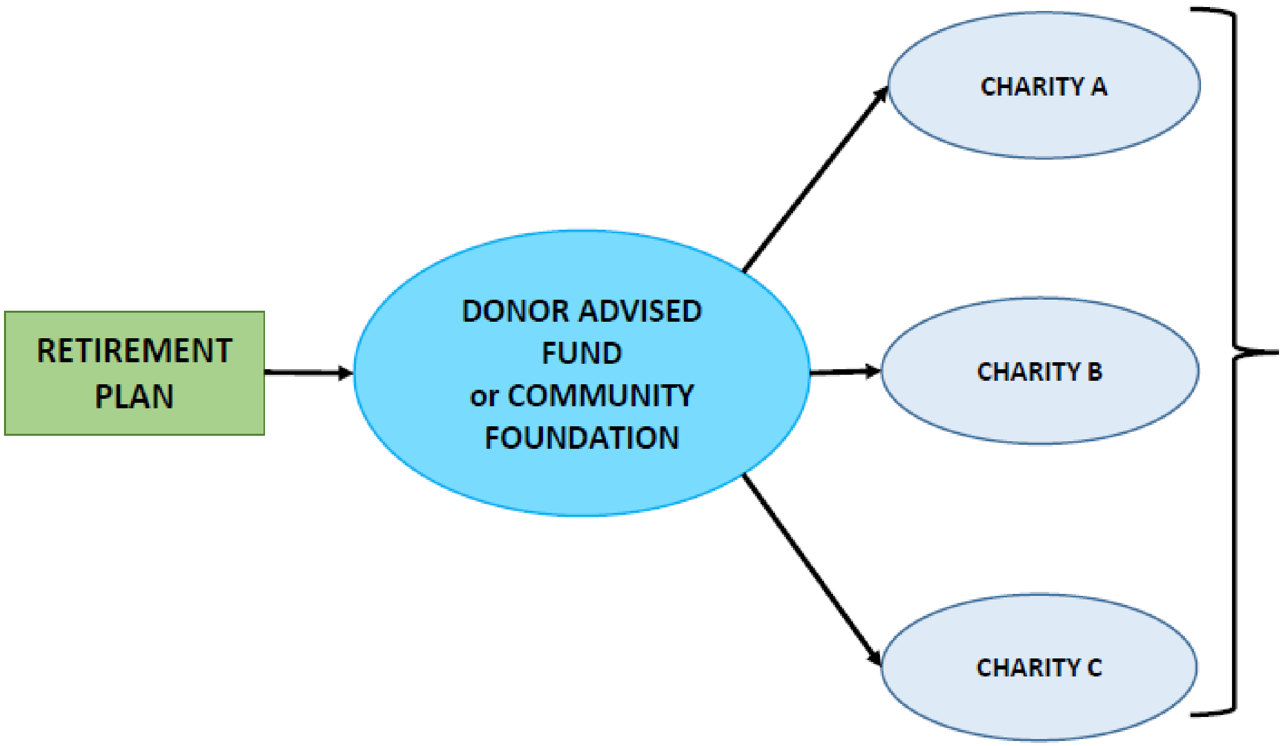
While the IRA's value would be included in the donor's estate, the estate would receive a partial charitable deduction and the estate would not be subject to income tax in relation to the IRA.[6]

[6] PLR 200230018

Payable Directly to Charity, Donor Advised Fund or Community Foundation

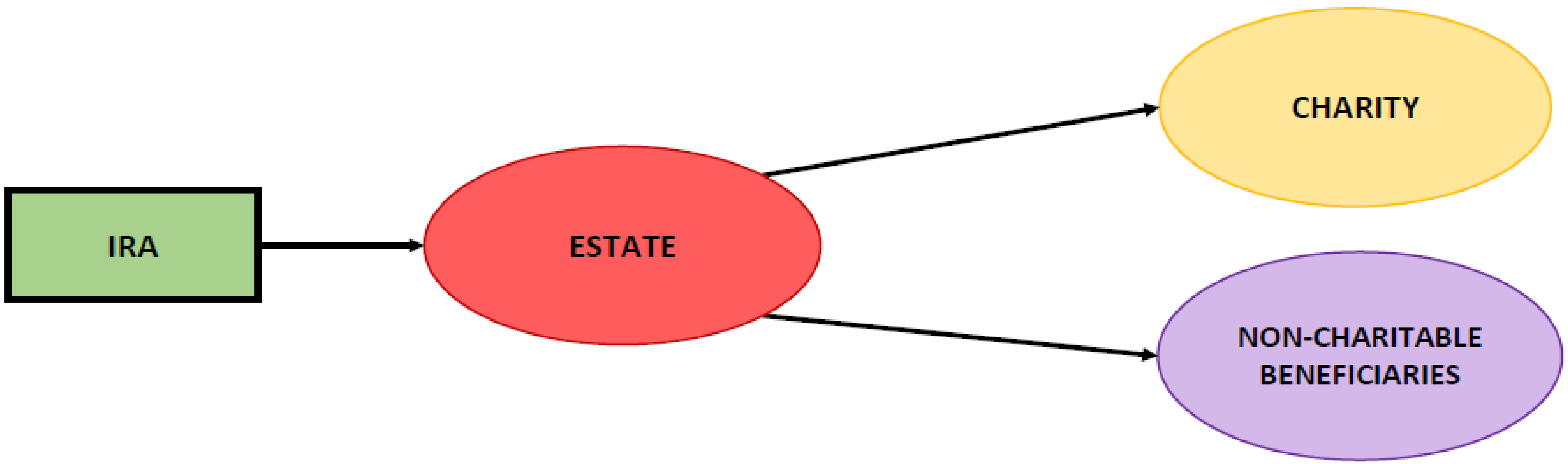


Retirement plan payable to charity directly via beneficiary designation. It does not matter whether it is a pecuniary or a fractional devise.



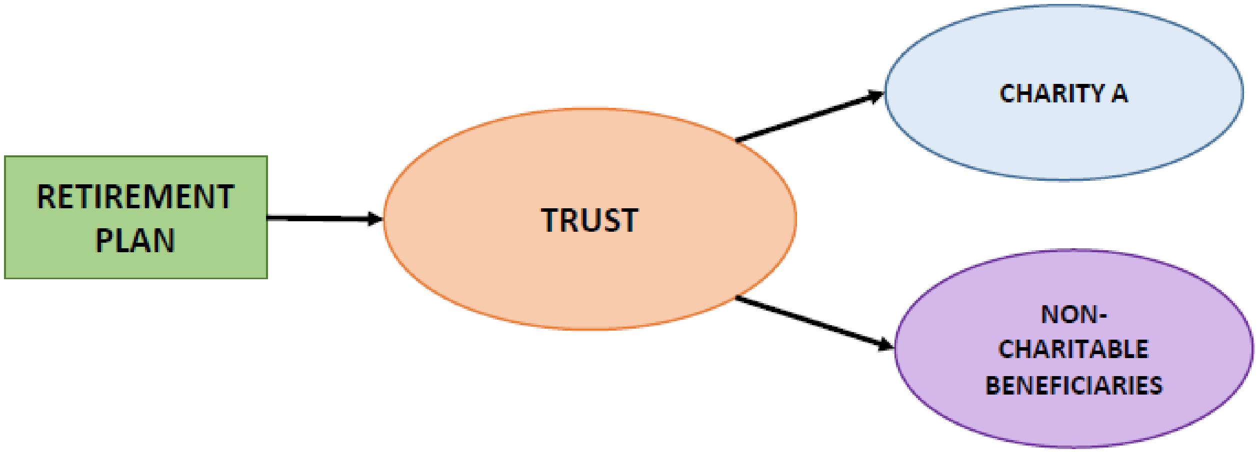
Retirement Plan payable by beneficiary designation to Donor Advised Fund, which can be controlled by owner's family. The family can decide which charity will benefit. This might provide the charities with more comfort as opposed to leaving the IRA directly to the charities. Family may also delay transfers from Donor Advised Fund for many years.

Payable to Estate, Which in Turn Pays to Charity and Non-Charitable Beneficiaries



This is a sub-optimal disposition, because Required Minimum Distributions must be paid out within five years of Plan Participant's death (unless the At Least As Rapidly Rule applies). Nevertheless, the estate can receive an income tax deduction from amounts set aside to charity, assuming that the Last Will and Testament authorizes payment to charity. It would be prudent to provide under the Last Will and Testament that the Personal Representative can use income of the estate to pay any charitable devises in order to maximize the charitable deduction. An estate also can get the charitable deduction for amounts "set aside" for charity, in addition to amounts that are actually paid to charity. (This is different from a trust where the "set aside" option does not apply.)

Payable to Trust, Which in Turn Pays to Charity and Non-Charitable Beneficiaries



Devise to charity must be made no later than September 30 of the year following the year of the owner's death in order to allow the trust to qualify as a "See-Through Trust" for RMD purposes.

The devise to charity should be specified in terms of a fractional devise (rather than a pecuniary devise) in order to avoid gains on funding the charitable devise.

Consider if the 3.8% N.I.I.T. tax will apply.

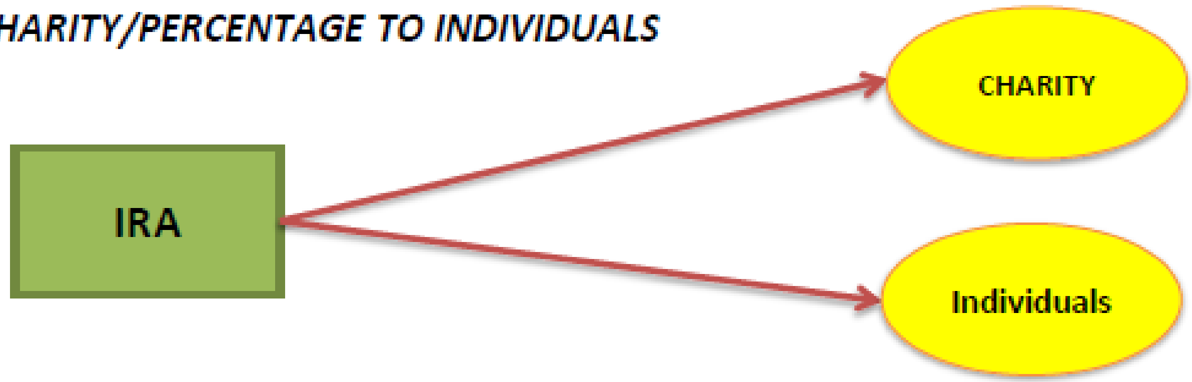
Consider whether charitable donation should be made in the same tax year or in the tax year after a liquidation of the retirement plan in order to "match" the charitable deduction and the income from liquidation of the retirement plan.

Section 642(C)(1) allows a charitable deduction to be carried back one year to offset income in the year prior to the year in which the amount is actually paid to charity.

The Mathematics of Pension & IRA Minimum Distribution Rules

PERCENTAGE TO CHARITY/PERCENTAGE TO INDIVIDUALS

SCENARIO A



IRA goes in equal shares, %, or fractional share to charity and individual beneficiary i.e. "I name as beneficiary of my IRA A Charity, and my two sons in equal shares."

1. No income triggered on transfer or payment to charity
2. Portion of IRA passing to individuals will be subject to the 10-Year Rule, unless paid to a Eligible Designated Beneficiary.

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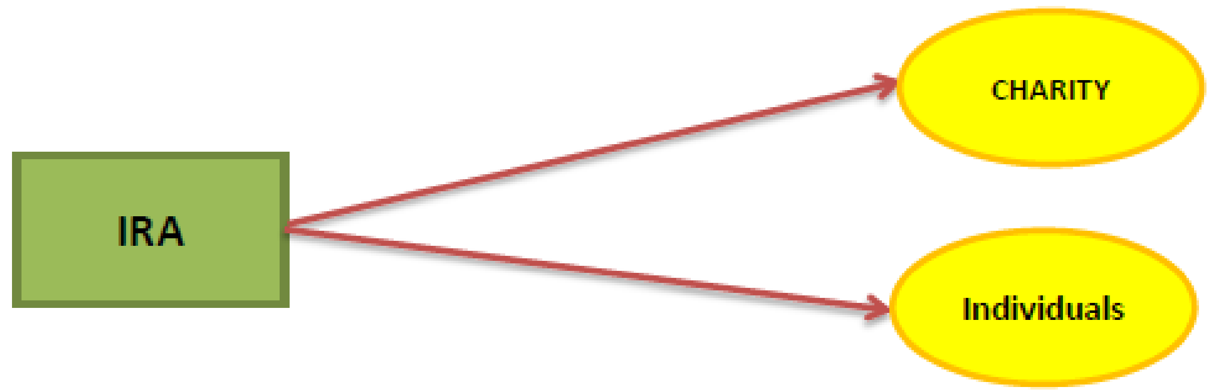
The Mathematics of Pension & IRA Minimum Distribution Rules

PECUNIARY (FIXED DOLLAR) AMOUNT TO CHARITY / REMAINDER TO INDIVIDUALS

SCENARIO B

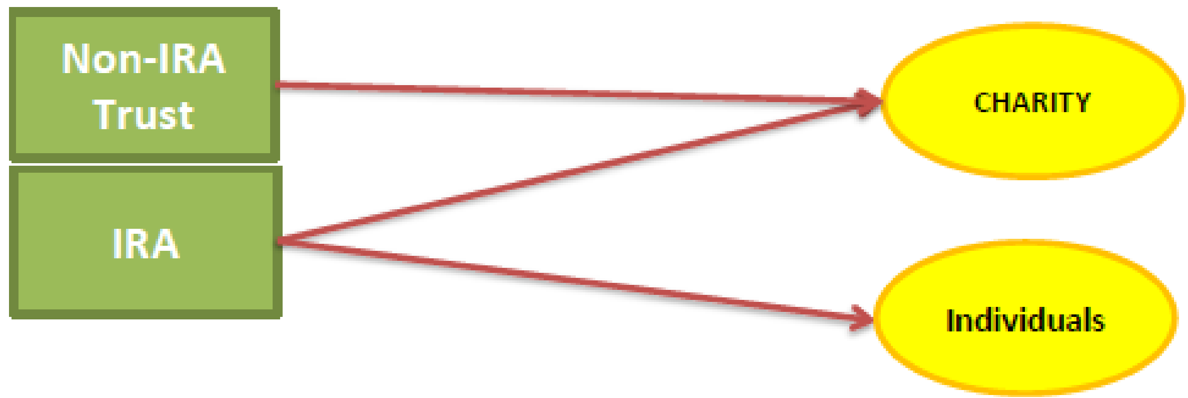


IRA goes dollar amount to charity, remainder to others
i.e. "$100,000 to Charity A, balance to my son."

1. No income triggered on payment to charity
2. Portion of IRA passing to individuals will be subject to the 10-Year Rule, unless paid to a Eligible Designated Beneficiary.
3. NOTE - If pecuniary amount is directed to charity via trust, then tax may be triggered at the trust level.

The Mathematics of Pension & IRA Minimum Distribution Rules

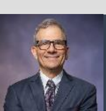
IRA GOES TO CHARITY ONLY TO THE EXTENT THAT CHARITABLE DISPOSITION IS NOT FUNDED FROM OTHER SOURCE



SCENARIO D

IRA goes to charity to the extent that trust does not give the charity a full $1,000,000 and the rest to children

1. If first paid to the Trust, and then to Charity, the Trust will receive an income tax deduction for amount paid to charity if (a) distribution was made pursuant to the governing instrument, and (b) payment was made out of income.
2. Portion of IRA passing to individuals will be subject to the 10-Year Rule, unless paid to a Eligible Designated Beneficiary.



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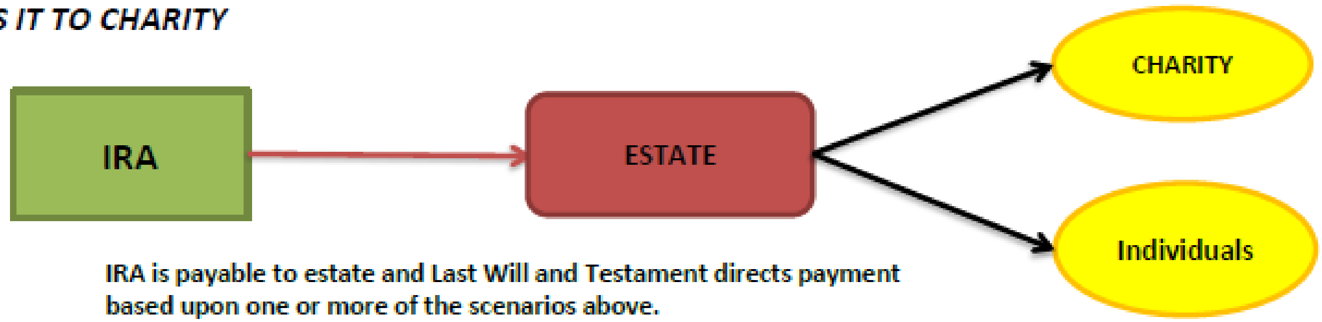
The Mathematics of Pension & IRA Minimum Distribution Rules

NEVER-EVER-EVER HAVE THE IRA PAYABLE TO THE ESTATE, AND A WILL THAT THEN DIRECTS IT TO CHARITY

SCENARIO E



IRA is payable to estate and Last Will and Testament directs payment based upon one or more of the scenarios above.

1. Estate receives income tax deduction for amounts paid or set aside for charity
2. When IRA is payable to the estate there is no designated beneficiary (even if transferred in kind to individuals by September 30th) thus either the 5 year rule or the at least as rapidly rule would apply for Required Minimum Distribution purposes.

Topic 9: Using a Charitable Remainder Trust by an Entity for Estate Tax Planning.

When individuals create a charitable remainder trust, they typically retain the annuity interest or unitrust interest as an asset that provides annual payments for life or for a fixed term not to exceed 20 years.

As with any valuable asset, individuals should consider using estate planning techniques for the retained interest in a charitable remainder trust. There are two factors that lead to favorable estate tax savings for the retained interest. The first is that the mortality tables "under value" the retained interest because they assume it will only last for the measuring person's life expectancy when the measuring life will live far longer. The second is that its §7520 value can be discounted by having the retained interest in the trust owned by a family limited partnership.

Topic 9: Using a Charitable Remainder Trust by an Entity for Estate Tax Planning.

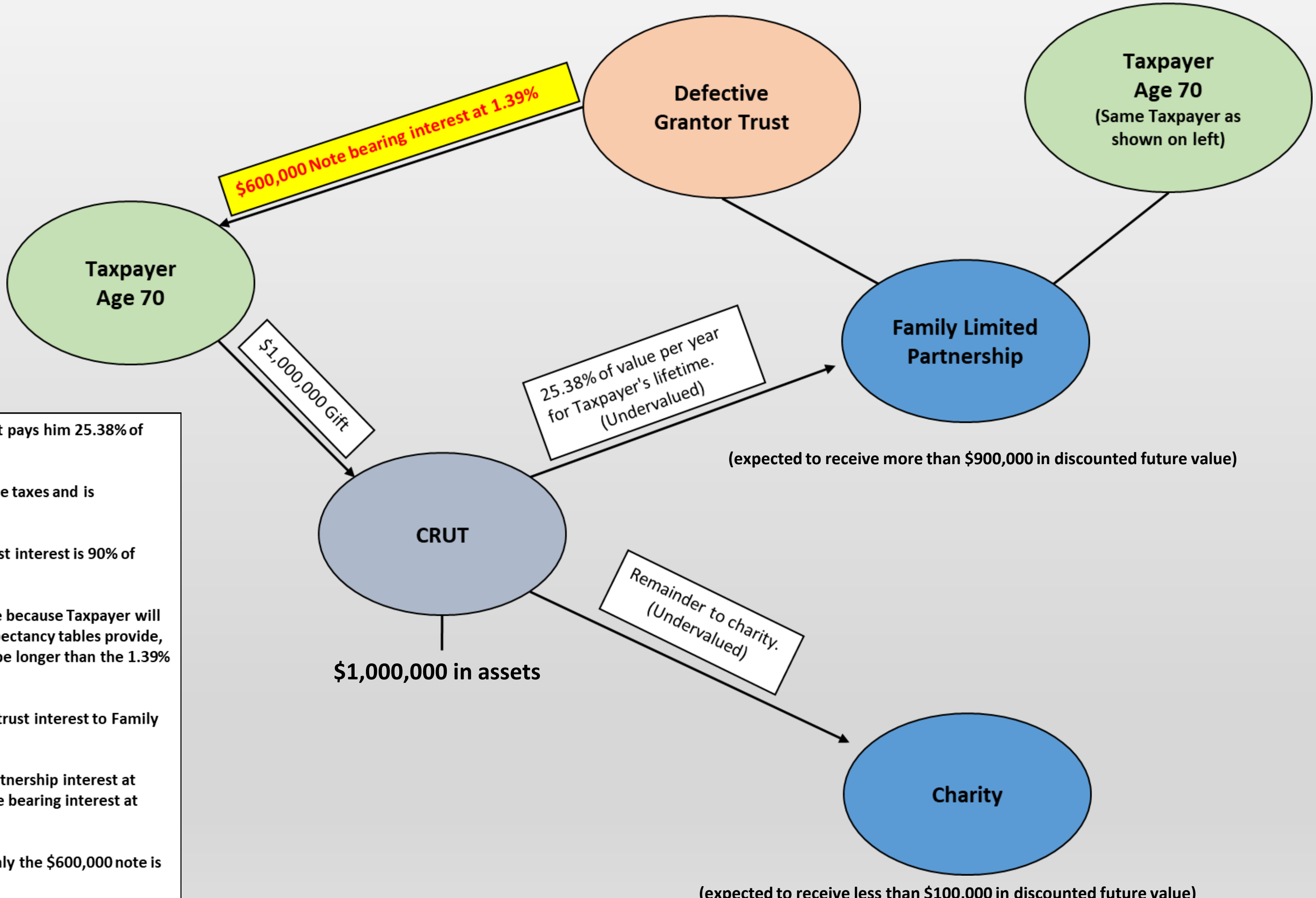
Step 1: Senior, age 70, creates a charitable remainder unitrust for life, retaining a 25.3% unitrust interest. Senior contributes an asset valued at $1,000,000 to the trust. The value of the charitable remainder interest is $100,000 for charitable income tax deduction purposes. The value of the retained unitrust interest is $900,000.

Step 2: Senior contributes the retained unitrust interest to a family limited partnership for a limited partnership interest with a $900,000 capital account. Applying a reasonable valuation discount, the value of the limited partnership interest is $600,000.

Step 3: Senior sells the limited partnership interest to an irrevocable grantor trust for the benefit of Senior's spouse and their descendants for a $600,000 promissory note, interest payable at the long-term AFR (1.31% in December of 2020) with all principal due in 16 years (Senior's life expectancy under the Treasury Regulation Section1.72-9 Table 5 mortality table).

The realistic value of the retained interest is based on the assumption that Senior, age 70, will easily live far beyond the 14.2 year life expectancy under the 2000CM mortality tables.

Topic 9: Using a Charitable Remainder Trust by an Entity for Estate Tax Planning.



Step 1: Taxpayer funds CRUT that pays him 25.38% of value per year for lifetime.

Taxpayer saves $37,000 in income taxes and is appreciated by the charity.

Step 2: IRC §7520 value of unitrust interest is 90% of what is contributed to CRUT.

In the real world it is worth more because Taxpayer will probably live longer than life expectancy tables provide, and rate of return will probably be longer than the 1.39% applicable Federal rate.

Step 3: Taxpayer contributes unitrust interest to Family Limited Partnership.

Step 4: Taxpayer sells limited partnership interest at 33.3% discount for $600,000 note bearing interest at 1.39%.

Step 5: After Taxpayer's death only the $600,000 note is included in his estate.

Charity receives what is then left under Charitable Remainder Unitrust.

Topic #10:

The CRUT and CLAT is Where It Is At

The CRUT and CLAT is Where It Is At

Senior wishes to benefit his favorite charity and his children in the most tax efficient manner.

He establishes a charitable remainder unitrust (CRUT) that will pay him 5% of the value of the CRUT assets each year for six years, with the remainder passing to charity.

This is pictured in the following slide:

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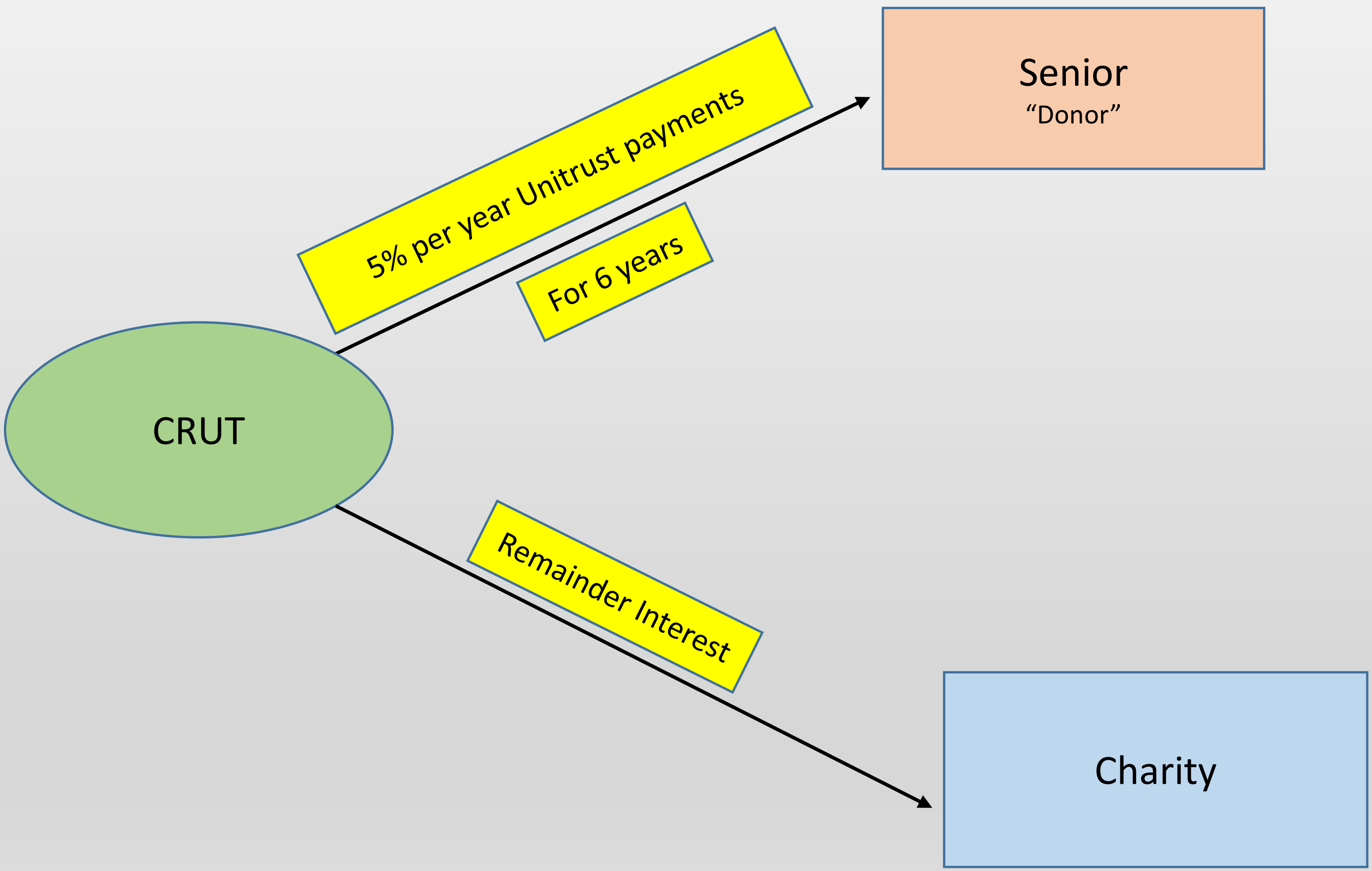
The CRUT and CLAT is Where It Is At



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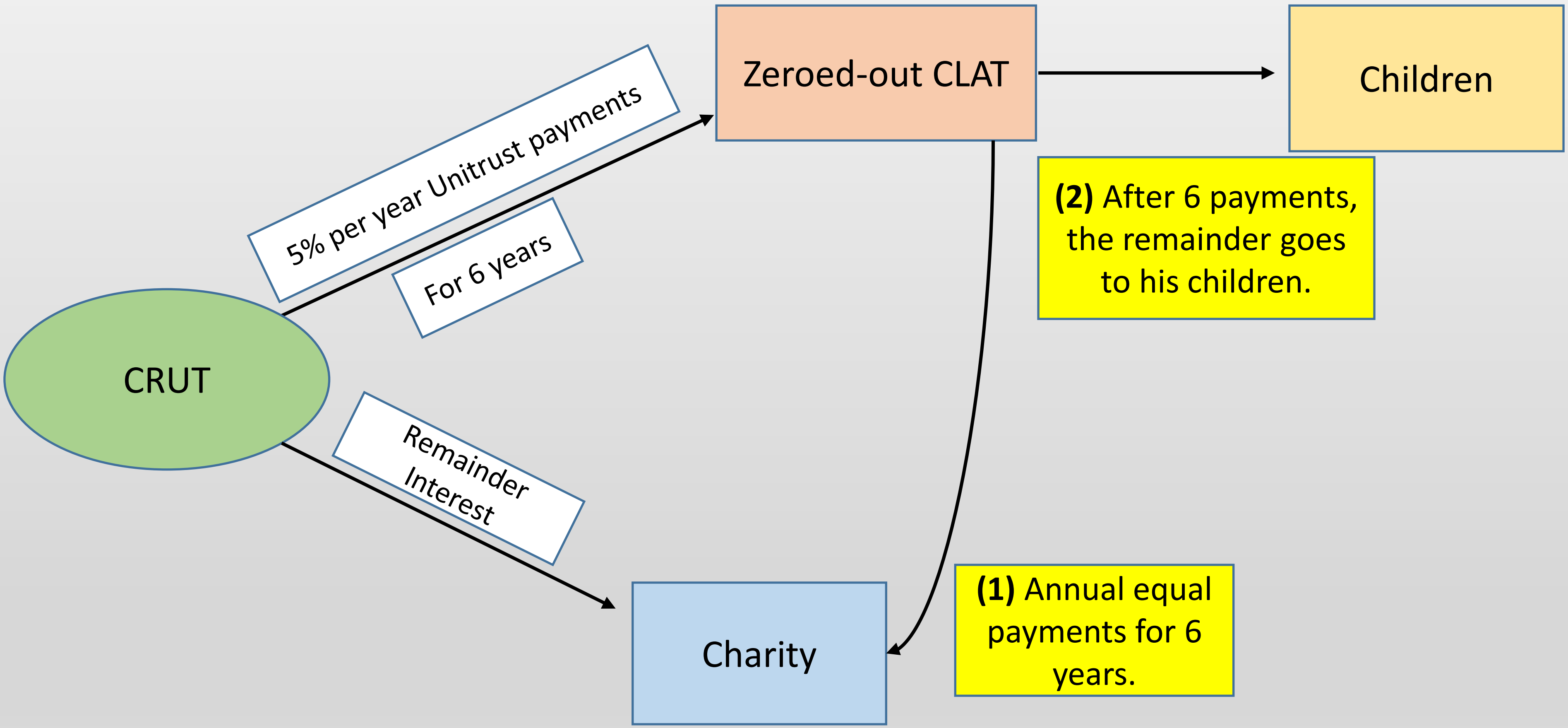
The CRUT and CLAT is Where It Is At

Senior donates his unitrust payment right to a Zeroed-out CLAT to receive a 100% charitable deduction for the value of the unitrust interest.

As a result of this Senior has a 100% tax deduction, and the CLAT remainder interest will pass to his children estate and gift tax-free.

The CRUT and CLAT is Where It Is At



The CRUT and CLAT is Where It Is At

If Senior uses a grantor CLAT he will get a tax deduction for the entire amounts contributed to the CRUT/CLAT arrangement and pay income tax to the extent that income is distributed from the CRUT to the CLAT, notwithstanding the payments going to charity.

This is generally the same income tax result that Senior would have had if he kept the assets that went into the CRUT – except that Senior is receiving an income tax deduction for the funding of the CRUT that can go forward up to five years.

Note that Senior’s tax deductible contribution to the grantor CLAT may not be permitted to be carried forward, by reason of IRS Private Letter Rulings 88-24-039, 98-22-025, and 98-23-005 (if the charity is a private foundation – commentators have indicated that this analysis by the IRS is questionable and not supported by the Internal Revenue Code).

Alternatively, if Senior uses a non-grantor CLAT there will be no charitable income tax deduction for the donation of the unitrust interest to the CLAT, but Senior will pay no income tax on the CRUT income as long as the distributions to charity from the CLAT exceed the income it receives from the CRUT.

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TOPIC #11:

ANTICIPATORY ASSIGNMENT OF INCOME WHEN CONTRIBUTING AN APPRECIATED ASSET TO A CRT

#11 – Assignment of Income Exposure Upon the Contribution of Appreciated Property to a Charitable Remainder Trust.

If the sale of an appreciated asset is being negotiated between the seller and the buyer, and the sale terms have been finalized, it is too late to contribute the appreciated assets to a charitable remainder trust before the closing so that the realized gain on the sale is reported by the trust as the owner of the appreciated asset that it sold for cash? Once the buyer and the seller are obligated to close, it is too late to assign the taxable gain to a charitable remainder trust. Under those facts, the IRS and court decisions take the position that the seller is assigning the right to collect the sale proceeds to the trust so that when the trust sells the appreciated asset, the gain the trust realized upon the sale must be reported by the person who contributed the asset to the trust.

Will add content.

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TOPIC #12:

EARLY TERMINATION OF CHARITABLE REMAINDER TRUSTS

1. Senior terminates the CRUT early

- What is not well-understood is that a unitrust is not interest rate sensitive. The §7520 rate does not determine the values for the annual unitrust distributions and the charitable remainder interest.
- Using the $1,000,000 corporate bond paying 5.0% annual interest, for age 75 the value of the unitrust interest that pays 5% of trust principal annually is $396,150, and the charitable remainder beneficiary would receive $603,850.
- Under §1001(e)(3) the basis of trust principal is allocated proportionally among the lead interest and the remainder interest. Only available if both interests in a trust are terminated.

If the basis in the asset contributed to the CRUT was $1,000,000, the entire $396,150 distribution would be a return of basis (39.615% x $1,000,000).

If the basis in the contributed asset is less than the value of the contributed asset, only 39.651% of the basis can be allocated to the unitrust interest. Therefore, a portion of the $396,150 is capital gain

- Had the basis in the contributed asset been only $400,000, 39.651% x $400,000 = 148,604 of basis is allocated to the $396,510 paid for the lead interest, resulting in a $247,906 capital gain.
-
- If the basis in the contributed asset was zero, the entire $396,510 would be reported as a capital gain.

Suppose the $1,000,000 contributed asset had a $400,000 basis. The trustee sells the asset for $1,000,000, reporting a $600,000 gain. The trustee uses the cash to purchase a replacement asset and takes a $1,000,000 cost basis in the purchased asset.

- The trust is terminated early when Senior is age 75.
- Can the trustee allocate 39.615% of the current $1,000,000 trust basis to the unitrust interest?
- You cannot make the $600,000 gain disappear. See Treas. Reg. §§ 1.1014-5(c) and 1.1014-5(d) examples 7 and 8. Only a portion of the $400,000 at the time of contribution can be used

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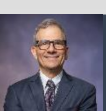
2. Senior continues to receive a $50,000 annual distribution from the CRAT for the next 15 years and dies at age 90

Using the 3.6% §7520 rate as the discount rate, the present value of $50,000 annually for 15 years is $571,796. With a bond paying $50,000 annual interest, the entire $50,000 unitrust payment is characterized as ordinary income under §664(a)(1).

Taking into account the income taxes on $50,000 of ordinary income for 15 years, the present value of the future income taxes is $261,842 (45.8% x $571,796 = $261,882). Therefore, the after-tax present value of receiving $50,000 annually for 15 years is $369,914. The $369,914 is what should be used to decide whether to terminate the CRAT early.

Key: Converting future ordinary income into current capital gain



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3. Sale of term interest in the CRUT to a third-party

Senior, age 75, decides to sell the unitrust interest in the CRUT to a third-party for cash. Using an asset valued at $1,000,000, the value of the unitrust interest under §664(e) is $396,150.

The CRUT is not terminated. Instead, the purchaser owns the unitrust interest and the charity continues to own the remainder interest. §1001(e)(3) only allocates basis proportionately if all trust interests are terminated.

If the trust continues, and the unitrust interest is sold, §1001(e)(1) does not allow the seller of a term interest in a trust to allocate any of the trust's basis in trust principal to the sale of the term interest. Therefore, the seller must report the entire **$396,150** as a capital gain even though the basis in the contributed asset was $1,000,000.

Is it better to terminate the trust early or sell the unitrust interest and continue the trust?

Basis	39.615%	Sale proceeds	Capital gain
$1,000,000	$396,150	$395,150	Zero
$400,000	$148,604	$395,150	$247,906
Zero	Zero	$395,150	$395,150
If there is	basis, sale only	makes sense	only if there was no basis at formation

CAUTION

All other things being equal, a third-party sale may or may not yield more after taxes than an early termination. A careful financial analysis of the basis in the contributed assets is necessary in evaluating the offer under a third-party sale. In high basis situations the early termination can yield far better financial results than a sale to the third-party buyer. In low basis situations, because the third-party buyer is willing to pay more than the §664(e) value, the sale will almost always yield more than an early termination.

If the holder of the term interest sells the lead interest to the third-party buyer, the charitable remainder trust will continue and thus postpone when the charitable remainder beneficiary receives its distribution. Whereas, upon an early termination of the charitable remainder trust, the charity receives the §664(e) value at that time instead of having to wait until the measuring life dies.


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#12 – Early Termination of CRTs or Sale of the Retained Income Interest.

<u>Alternatives for Existing Charitable Remainder Trusts.</u>

1. Continuation.
   - Charity must wait until death of the measuring life.
   - If measuring life is in good health and is expected to live into their 90s.
   - Consistent with original purpose to provide an income for life.
   - Prepare a present value financial analysis, needed to compare to below alternatives.
2. Early Termination of Trust.
   - Charity receives immediate distribution instead of having to wait until death.
   - No longer have restrictions on investment of trust assets that apply to all CRTs.
   - Would like to receive a lump sum amount to pursue gifts to descendants or investment opportunities.
   - Converts ordinary income into capital gains and return of basis.

#12 – Early Termination of CRTs or Sale of the Retained Income Interest.

<u>Alternatives for Existing Charitable Remainder Trusts.</u>

3. Sale of Annuity or Unitrust Interest to a Third-party.
   - Charity still has to wait until death of measuring life.
   - Receive lump sum payment.
   - Convert ordinary income into capital gains.
   - Third-party willing to pay more than the §664(e) early termination value.
   - Caution: Not able to allocate basis to sale proceeds. §1001(e)(1)

Early Termination of Charitable Remainder Trusts

Several years ago, Senior contributed a $1,000,000 corporate bond with a $1,000,000 basis and value to a charitable remainder trust for Senior's life. The bond pays 5.0% annual interest. Senior retained the right to receive an amount equal to 5.0% of the value of trust principal. Today, Senior is age 75, and the §7520 rate is 0.4%.

Senior is considering whether to, (1) terminate the charitable remainder trust early, (2) continue to receive the $50,000 interest distribution for the rest of his life or (3) sell the retained lead interest to a third-party for cash.

The following examples illustrate the value, as determined under §664(e), of the retained interest if the CRT was a charitable remainder annuity trust (a "CRAT") paying a fixed $50,000 annual annuity or a charitable remainder unitrust (a "CRUT") paying 5.0% annually (5.0% x $1,000,000 = $50,000).

For illustrative purposes, assume Senior's combined Federal and state income tax rate on ordinary income is 45.8% (37% + 3.8% + 5.0%) and on capital gain is 28.8% (20% + 3.8% + 5.0%).

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Early Termination of Charitable Remainder Trusts

The first step is the process is to evaluate the misleading actuarial assumptions with the 2000CM mortality tables that are required to be used under §7520?

1. The 2000CM mortality tables are now 20 years out of date.
2. The 2000CM mortality tables are gender neutral.
3. The mortality tables use the U.S. census data, covering the entire U.S. population.
4. Life expectancy does not mean an individual will only live to their life expectancy age. For an individual age 75, there is an 11.1-year life expectancy. For an individual age 75, there is a 50% probability that the individual will still be living at age 86. *Note*: Using the 2010 U.S. Census mortality tables, the probability someone age 75 will live to age 90 is 36.1%.
5. The life expectancy of age 75 is 11.1 years based on the 2000CM mortality tables (the 2000 census data). Under the 2010 mortality tables (the 2010 census data), the life expectancy is 12.7 years for age 75. Remember that the 2010 census data is still 10 years out of date. Note that a life insurance company estimates Senior’s life expectancy to be 15 years (to age 90) as Senor is healthier than the average US person of the same age. People who can afford sophisticated planning normally take better care of themselves, get better medical attention, and live longer than average.

- The IRS was supposed to issue the 2010 mortality tables by May 1, 2019.
- CDC did not release the 2010 Census data until August 7, 2020.
- The IRS has yet to incorporate the 2010 census under §7520. The new mortality tables are not expected until January at the earliest. So, continue to use 2000CM under §7520.

Early Termination of Charitable Remainder Trusts

1(a). Senior terminates a CRAT early.

Upon an early termination of a charitable remainder trust, §7520 assumes that the retained annuity or unitrust amount will last only for the holder's life expectancy. In the examples that follow, §664(e) requires that for a measuring life age 75, the lead interest will last only 11.1 years even though it is realistic to assume that the measuring life will live far longer.

- **Example 1**
  - Under §664(e), if the charitable remainder trust is a CRAT, upon an early termination Senior, age 75, would receive $538,500. Pursuant to §1001(e)(3), Senior can allocate 53.85% of the $1,000,000 basis in the trust principal to the early termination payment. Therefore, Senior's after-tax return on an early termination would be the same $538,500. And the charitable remainder beneficiary would receive $461,500.
- **Example 2**
  - If the income tax basis in the $1,000,000 asset contributed to the CRAT had only been $400,000, then Senior would only be permitted to allocate (53.85% x $400,000) $215,499 of basis to the $538,500 early termination distribution and report the resulting $323,100 as a capital gain. At a combined 28.8% capital gain rate, the taxes on the capital gain would be $93,053. Therefore, Senior's net after tax amount would be $445,447.
  - Had the CRT sold the appreciated asset for a $600,000 gain and reinvested the $1,000,000 sale proceeds so that the purchased asset had a basis of $1,000,000, the $600,000 of built-in gain carries out if there is a distribution of trust principal. *See Treas. Reg. §1.1014-5(c) and §1.1014-5(d) Examples 7 & 8.*

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Early Termination of Charitable Remainder Trusts

1(a). Senior terminates a CRAT early.

- **Example 3**
  - If the income tax basis in the $1,000,000 asset contributed to the CRAT had been zero, then there would have been no uniform basis to allocate to Senior's annuity interest so the entire $538,500 distribution upon the early termination of the trust would be characterized as a long-term capital gain. After paying the $155,088 of income taxes on the $538,500 capital gain, Senior would have netted $383,412 after taxes. The after tax $383,412 should be compared to what the holder of the lead interest would have netted after tax if a third-party purchaser of the lead interest would have paid more than the amount calculated under §664(e), discussed later in this paper.

Early Termination of Charitable Remainder Trusts

1(b). Senior terminates a CRUT early.

What is not well-understood is that the unitrust is not interest rate sensitive so that the §7520 rate does not determine the values for the annual unitrust distributions and the charitable remainder interest. Using the same $1,000,000 corporate bond paying 5.0% annual interest, for age 75 the value of the unitrust interest that pays $50,000 annually is $401,260, and the charitable remainder beneficiary would receive $598,740.

If the basis in the asset contributed to the CRUT was $1,000,000, the entire $401,260 distribution would be a return of basis. If the basis in the contributed asset was less than the $1,000,000 value of the contributed asset, then a portion or all of the $401,260 would be capital gain.

Early Termination of Charitable Remainder Trusts

2. Senior continues to receive a $50,000 annual distribution from the CRAT for the next 15 years and dies at age 90.

Using the 0.4% §7520 rate as the discount rate, the present value of $50,000 annually for 15 years is $726,534. With a bond paying $50,000 of annual interest, each $50,000 payment is characterized as ordinary income under §664(a)(1).

Taking into account the income taxes on $50,000 of annual ordinary income, then the present value of the income taxes paid is $332,752 (45.8% x $726,534 = $332,752). Therefore, the after-tax present value of receiving $50,000 annually for 15 years is $393,781. The $393,781 is what should be used to decide whether to terminate the CRAT early or sell the annuity interest in the CRAT to a third-party.

Early Termination of Charitable Remainder Trusts

3. Sale of term interest in the CRAT to a third-party for cash.

Suppose Senior, age 75, decides to sell the annuity interest in the CRAT to a third-party for cash. Using the same assumed facts of an asset valued at $1,000,000 with a $1,000,000 income tax basis at the time the asset was contribute to the trust, and the determination of value for the annuity interest under §664(e) [The §7520 discount rate is 0.4% and Senior's life expectancy under 2000CM is 11.1 years], the present value of the annuity interest is $538,500. Remember that §664(e) uses an 11.1-year life expectancy.

The third-party buyer can pay more for the annuity interest because it is expected that Senior will live at least 15 years instead of the 11.1 year life expectancy required to be used in determining values for early termination of the charitable remainder trust. To the third-party buyer, the present value at a 0.4% discount rate of $50,000 annually for 15 years is $726,534. Suppose the third-party buyer offers Senior $14,563 in excess of the §664(e) value ($14,563 + $538,500 = **$554,063**).

Because §1001(e)(1) does not allow the seller of a term interest in a trust to allocate any of the trust's basis for its principal to the sale of the term interest, the seller must report the entire **$553,063** as a capital gain even thought the basis in the contributed asset was $1,000,000.

Early Termination of Charitable Remainder Trusts

3. Sale of term interest in the CRAT to a third-party for cash.

a) At a 28.8% combined Federal and state income tax rate on capital gains, the income taxes on a $553,063 capital gain would be $159,282. Therefore, the seller would net only **$393,781** after taxes even if the entire annual $50,000 was ordinary income.

b) Compare to the **$393,781** Senior would net after taxes in present value terms if Senior did not sell his annuity interest, did not terminate the trust early and continued to receive the annual $50,000 ordinary income distribution for the next 15 years.

c) The above analysis assumes that the entire $50,000 would be characterized as ordinary income. If the $50,000 was composed of ordinary income, qualified dividends, and capital gains, the after-tax amount upon receiving $50,000 annually for 15 years would be greater than the $393,781 after tax amount.

d) Compare to the after-tax amount Senior would net if the CRAT was terminated early and Senior received a $538,000 distribution. If the trust's basis in trust principal (the contributed property) was $1,000,000, the entire $538,500 would not be subject to any income taxes. In order for a third-party sale to net Senior the same $538,500 after taxes, the third-party purchaser would have to pay $756,320 for the annuity interest.

e) If the trust's basis in the contributed asset was $400,000 instead of $1,000,000, upon an early termination, Senior would only be allocated (53.85% x $400,000) $215,400 of basis for the $538,500 distribution, resulting in a $323,100 capital gain and $93,053 of taxes. Therefore, Senior would net $445,447 after taxes. The third-party seller would have to pay Senior $625,628 for the annuity interest. With all $625,628 as a capital gain, at a 28.8% effective income tax rate, Senior would pay $180,181 in taxes and net $445,447 after taxes.

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Early Termination of Charitable Remainder Trusts

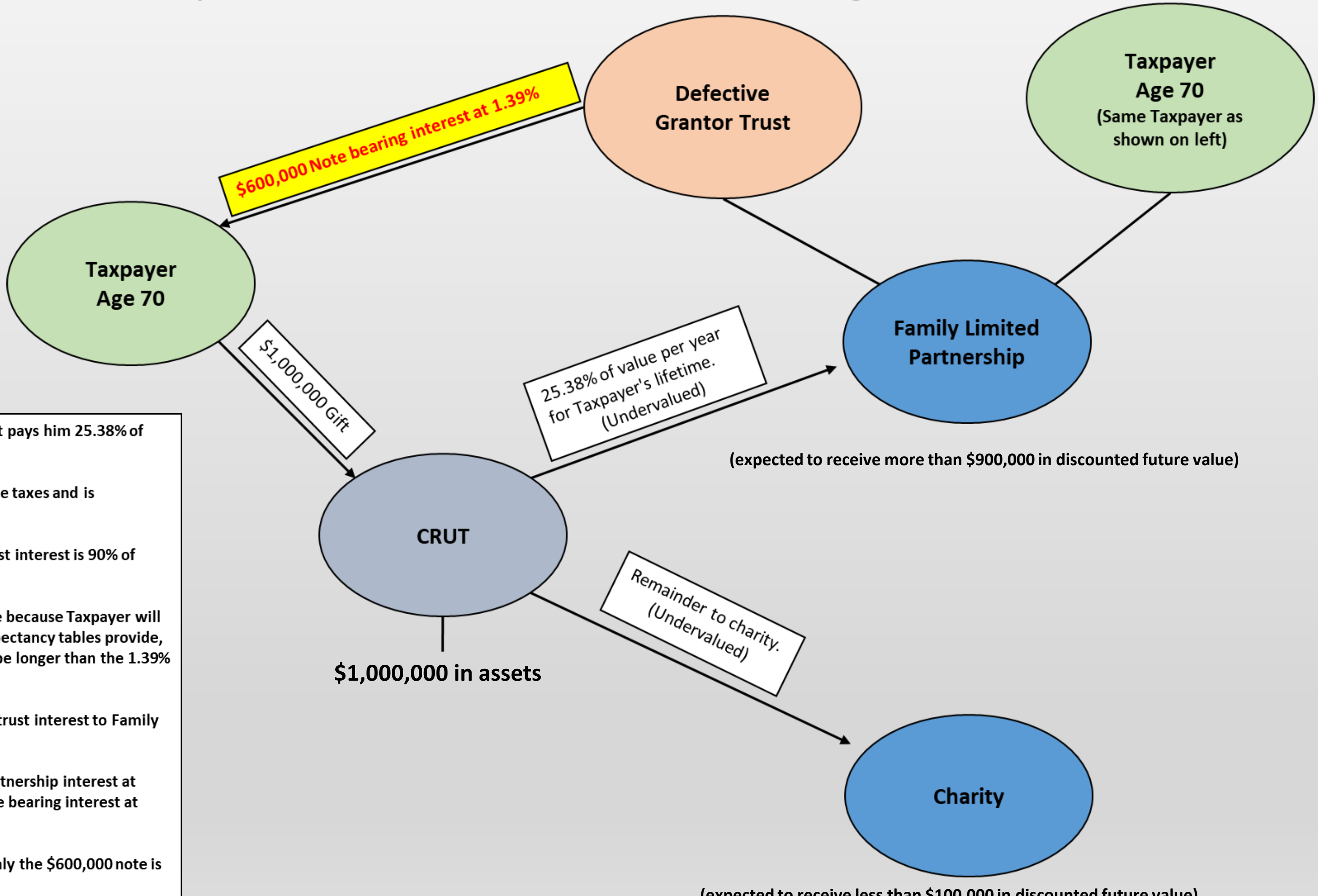
3. Sale of term interest in the CRAT to a third-party for cash.

f) If the income tax basis in the $1,000,000 asset contributed to the CRAT had been zero, then there would have been no uniform basis to allocate to Senior's annuity interest so the entire $538,500 distribution upon the early termination of the trust would be characterized as a long-term capital gain. After paying the $155,088 of income taxes on the $538,500 capital gain, Senior would have netted $383,412 after taxes. The after tax $383,412 is based on that the third-party buyer paid the §664(e) value. **If there is little or no basis in the contributed assets and the third party buyer pays more than the §664(e) value, then the sale to the third party buyer will yield more to the seller than an early termination.**

CAUTION*: All other things being equal, a third-party sale may or may not yield more after taxes than an early termination. A careful financial analysis of the basis in the contributed assets is necessary in evaluating the offer under a third-party sale. In high basis situations the early termination can yield far better financial results than a sale to the third-party buyer depending upon how must over the §664(e) value the third party buyer is willing to offer.*

If the holder of the term interest sells the lead interest to the third-party buyer, the charitable remainder trust will continue and thus postpone when the charitable remainder beneficiary receives its distribution. Whereas, upon an early termination of the charitable remainder trust, the charity receives the §664(e) value at that time instead of having to wait until the measuring life dies.

Topic 10: Using a Charitable Remainder Trust by an Entity for Estate Tax Planning.



Step 1: Taxpayer funds CRUT that pays him 25.38% of value per year for lifetime.

Taxpayer saves $37,000 in income taxes and is appreciated by the charity.

Step 2: IRC §7520 value of unitrust interest is 90% of what is contributed to CRUT.

In the real world it is worth more because Taxpayer will probably live longer than life expectancy tables provide, and rate of return will probably be longer than the 1.39% applicable Federal rate.

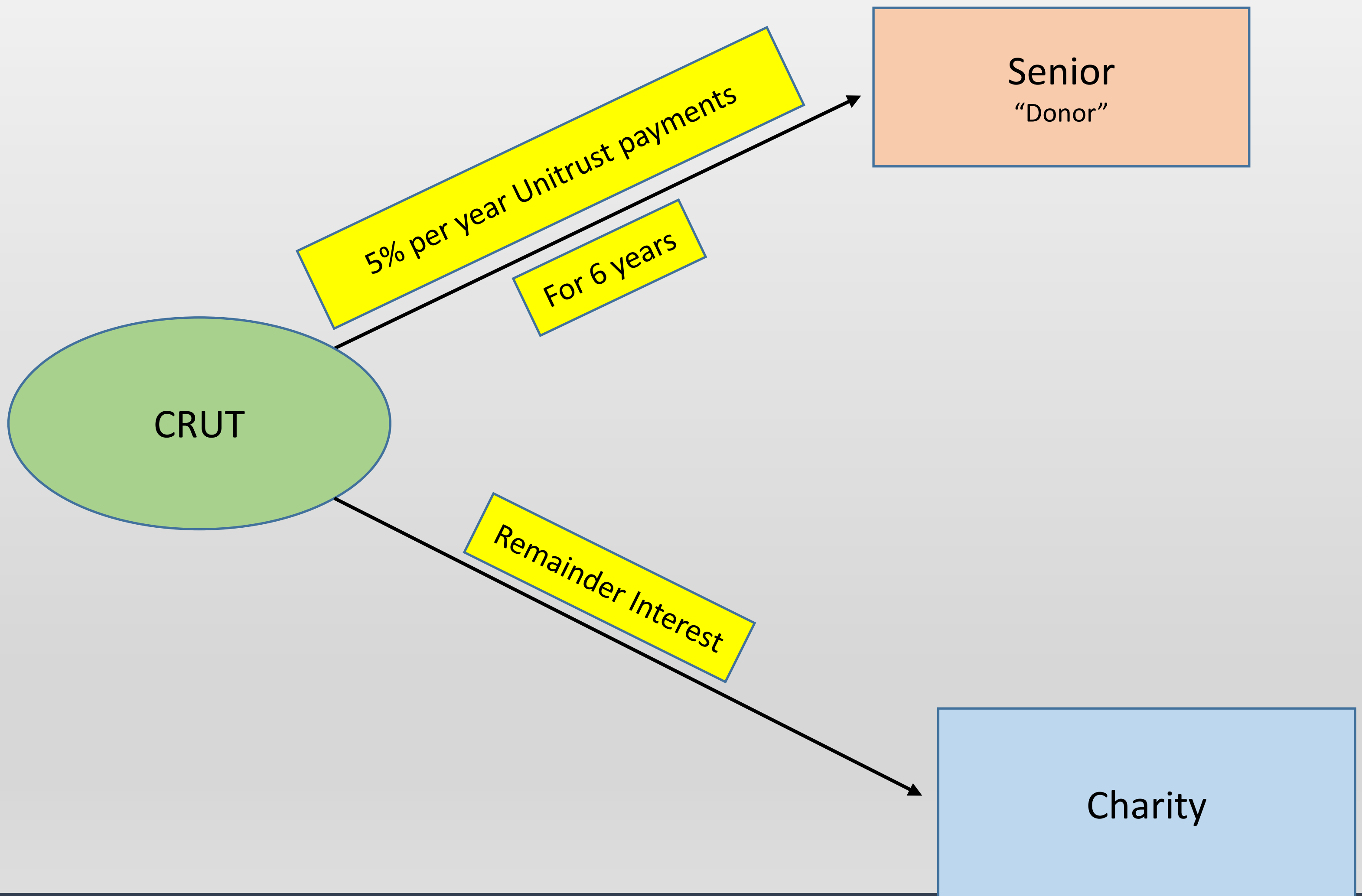
Step 3: Taxpayer contributes unitrust interest to Family Limited Partnership.

Step 4: Taxpayer sells limited partnership interest at 33.3% discount for $600,000 note bearing interest at 1.39%.

Step 5: After Taxpayer's death only the $600,000 note is included in his estate.

Charity receives what is then left under Charitable Remainder Unitrust.

The CRUT and CLAT is Where It Is At.

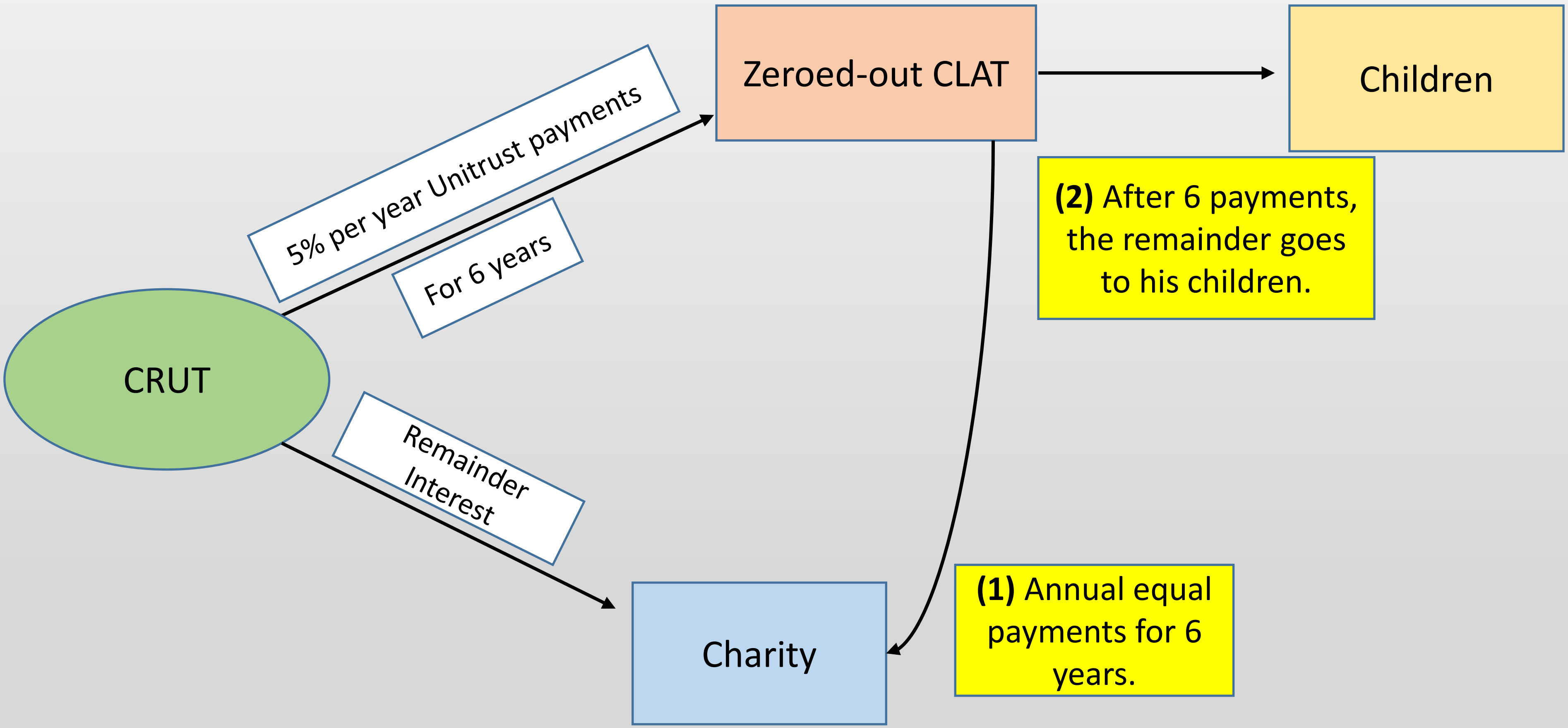


The CRUT and CLAT is Where It Is At.

Senior donates his unitrust payment right to a Zeroed-out CLAT to receive a 100% charitable deduction for the value of the unitrust interest.

As a result of this Senior has a 100% tax deduction, and the CLAT remainder interest will pass to his children estate and gift tax-free.

The CRUT and CLAT is Where It Is At.



The CRUT and CLAT is Where It Is At.

If Senior uses a grantor CLAT he will get a tax deduction for the entire amounts contributed to the CRUT/CLAT arrangement and pay income tax to the extent that income is distributed from the CRUT to the CLAT, notwithstanding the payments going to charity.

This is generally the same income tax result that Senior would have had if he kept the assets that went into the CRUT – except that Senior is receiving an income tax deduction for the funding of the CRUT that can go forward up to five years.

Note that Senior’s tax deductible contribution to the grantor CLAT may not be permitted to be carried forward, by reason of IRS Private Letter Rulings 88-24-039, 98-22-025, and 98-23-005 (if the charity is a private foundation – commentators have indicated that this analysis by the IRS is questionable and not supported by the Internal Revenue Code).

Alternatively, if Senior uses a non-grantor CLAT there will be no charitable income tax deduction for the donation of the unitrust interest to the CLAT, but Senior will pay no income tax on the CRUT income as long as the distributions to charity from the CLAT exceed the income it receives from the CRUT.

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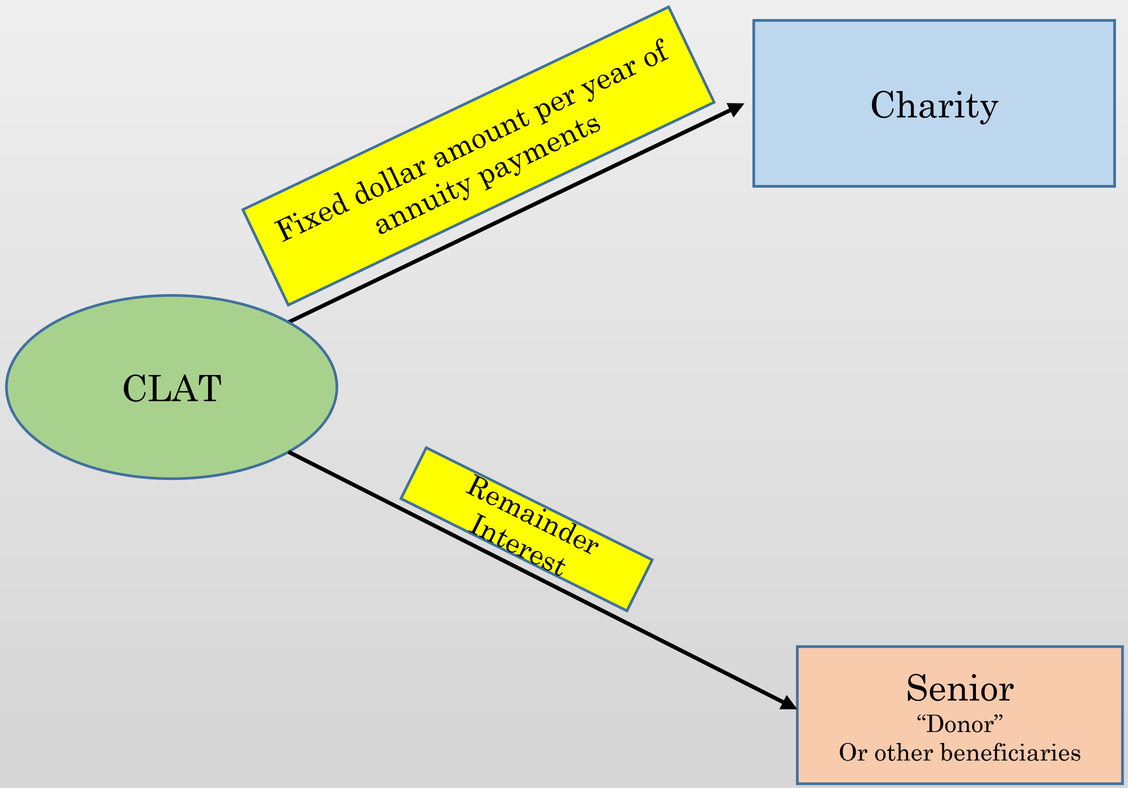
Anatomy of a CLAT



A Charitable Remainder Trust is a Split-Interest Trust

Internal Revenue Code Section 4947:

- (2) SPLIT-INTEREST TRUSTS In the case of a trust which is not exempt from tax under section 501(a), not all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which has amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522, section 507 (relating to termination of private foundation status), section 508(e) (relating to governing instruments) to the extent applicable to a trust described in this paragraph, section 4941 (relating to taxes on self-dealing), section 4943 (relating to taxes on excess business holdings) except as provided in subsection (b)(3), section 4944 (relating to investments which jeopardize charitable purpose) except as provided in subsection (b)(3), and section 4945 (relating to taxes on taxable expenditures) shall apply as if such trust were a private foundation. This paragraph shall not apply with respect to—

  (A) any amounts payable under the terms of such trust to income beneficiaries, unless a deduction was allowed under section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B),

  (B) any amounts in trust other than amounts for which a deduction was allowed under section 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such other amounts are segregated from amounts for which no deduction was allowable, or

  (C) any amounts transferred in trust before May 27, 1969.

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Charitable Remainder Trusts, Continued

- A Charitable Remainder Trust must provide that the present value of the assets passing to charity at the end of its term must equal a minimum equal to 10% of the value of the contributed assets.

- A Charitable Remainder Annuity Trust (CRAT) can provide for a fixed dollar amount of no less than 5% (but no more than 50%) of the initial net fair market value of the property contributed to the trust.

- The “Exhaustion Test” CRAT, must meet the “5% Probability Test” whereby there must be less than a 5% chance that the Trust assets will be exhausted before the end of the term. If the CRAT fails this Test, then no charitable deduction is allowed.

- A Charitable Remainder Unitrust (CRUT) provides for payments of a fixed percentage of the net fair market value of the property under the trust, valued annually, to be made to one or more non-charitable beneficiaries. The percentage must be at least 5% per year, but can be no more than 50%. The CRUT is not subject to the exhaustion test.

- Both a CRAT or a CRUT can be established during the lifetime of the settlor, or upon death.

- The annuity or unitrust payments received by the non-charitable beneficiary generally are subject to income tax on a “worst first” basis (i.e., ordinary income of the trust first, then capital gains etc.). See §664(b)(1)-(4).

Charitable Remainder Trusts, Continued

- Upon contribution to a CRT, the charitable deduction is based upon the present value of the remainder interest that will pass to charity.

- The value of assets that actually pass to the charity at the end of the term do not matter in determining the charitable deduction upon a contribution.

- The Section 7520 Rate is used to determine the value of the charitable remainder interest only for a CRAT. The Section 7520 rate for the month of funding of the Trust, or the Section 7520 rate for the two months prior, can be used. For a CRUT, the §7520 rate indirectly applies only as an adjustment factor.

- As a rule of thumb, a longer term will result in a smaller charitable deduction, and a shorter term will result in a larger charitable deduction.

- A lower §7520 rate will result in a smaller charitable deduction under a CRAT, and a higher §7520 rate will result in a larger charitable deduction for a CRAT. CRUTs are not affected by the §7520 rate.

- The settlor can reserve the right to change the charity who will receive the remainder interest at the end of the term to make the CRAT or CRUT an “incomplete gift.”

- There will be gift tax consequences if the annuity or unitrust interest is payable to someone other than the settlor of the trust.

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