Using a Charitable Remainder Trust (CRT) for “Double Duty”: Retirement and Estate Planning

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A Charitable Remainder Trust (CRT) can be an attractive way to make lifetime gifts to a charity. A charitable gift made during a person’s lifetime can serve as a valuable estate planning technique that offers three important tax benefits and lifetime income to the donor. This trust is as close to having your cake and eating it too in the world of financial planning.

• **Estate Tax Break** – A lifetime charitable gift removes assets and future appreciation from the transferor’s estate.

• **Avoidance of Capital Gains** – By giving away appreciated securities, the transferor avoids capital gains tax that would have been imposed if the donated assets had been sold.

• **Current Income Tax Deduction** – The fair market value of a charitable gift may qualify for an income tax deduction in the year the gift is made.

• **Lifetime Income** - to the income beneficiaries (the donor or other entity.)

Who Can Take Advantage of CRTs?

CRTs can have the most advantages for those individuals who:

• are age 50 or older;
• have a strong desire to give to charity;
• are in a fairly high federal income tax bracket; and
• would like to avoid ongoing investment management responsibility, while receiving a steady flow of retirement income that they can’t outlive.

Those individuals who are interested in creating a CRT should consult qualified financial and legal professionals for more guidance on whether or not this technique would be a viable strategy, based on their long-term financial goals and objectives.

(Have a link to the following material)

How a CRT Works

A CRT is an irrevocable trust that names one or more qualified charities as beneficiaries. It is created by an individual known as a “grantor” through the use of a trust document – and is often funded with appreciated assets, such as low-basis stocks.

• Once stocks have been transferred to the trust, they may be sold by the trustee (i.e., the individual or entity that manages the trust) and the assets can be repositioned to increase income and diversification.

• Since the trust is a tax-exempt entity, no capital gains tax is due on the sale of trust assets.

• The grantor (and/or any other designated income beneficiaries) receives an income from the trust during his or her lifetime.

• Upon the death of the last income beneficiary, the “remainder” of the assets in the trust passes to the designated charity and the trust terminates.
Benefits for the Grantor/Beneficiaries

- Because the transfer is irrevocable and the grantor gives up control of the trust assets, they are removed from the grantor's taxable estate.
- The trust generates an income tax deduction for the grantor/donor in the year the gift is made, although adjusted gross income limitations on the charitable deduction should be considered as well.
- The trust provides lifetime income for one or two income beneficiaries.

The Grantor’s Four Decisions

The grantor of a CRT has four major decisions to make when setting up the trust:

- **Trustee** – The grantor must appoint a trustee – a person or institution responsible for the CRT’s administration and asset management – and perhaps a successor trustee, who would serve as trustee in case the primary trustee can no longer do so.

- **Charity** – The law requires that the trust remainder be transferred to one or more qualified charities appointed by the grantor upon the death of the last income beneficiary. However, the choice of charity is *not* an irrevocable designation.

- **Income Beneficiary or Beneficiaries** – The grantor must select an income beneficiary to receive income payments specified by the trust document for life – or over a specified number of years. The beneficiary may be the grantor, the grantor’s spouse, another person, or any two people. (If anyone other than the grantor and/or the grantor’s spouse is an income beneficiary, there may be gift tax consequences to the grantor for that beneficiary’s income interest.)

- **Income Amount and Duration** – An annual income payout to an income beneficiary is required and may be made over a single life, joint lives, or for a period certain of up to 20 years. In making this decision, the grantor should take into account the income beneficiary’s income tax status. While the CRT does not pay income tax, the income beneficiary is required to pay tax on trust distributions as they are received.

How the CRT Tax Deduction is Calculated

The current tax deduction allowed on contributions to a CRT is determined by IRS formula, which is based on the present value of the remainder projected to be left to the charity. The formula calculates the discounted value of projected annual income payments to income beneficiaries over the payout period. The total discounted value of these payments is subtracted from the fair market value of assets contributed, and the IRS allows a current tax deduction equal to the remainder. In general, the older the grantor is at the time the trust is established, the greater the current tax deduction will be as a portion of the total value contributed.

Trustee Choices in a CRT

Who can be the trustee of a CRT? Four choices are allowed: 1) a corporate trustee; 2) the charity; 3) an individual; or 4) the grantor.
The first choice usually is recommended by professionals because of the trustee’s numerous and complex responsibilities, such as:

- Each year, the trustee must file with the IRS a Split-Interest Trust Information Return (Form 5227) by April 15.
- The trust must obtain an appraisal of property contributed to the trust. Within 125 days after selling trust property (within three years of its contribution to the trust), the trustee must submit a signed copy of Form 8282 to the IRS.
- For non-cash charitable donations, the donor must complete IRS Form 8283. Ideally, this form should also be signed by the donee. In addition, the CRT trustee should also sign the donee acknowledgement section of IRS Form 8283.

Corporate trustees have the systems, staffs and objectivity to perform these complex tasks.

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