Charitable Remainder Trust

1. What is a Charitable Remainder Trust?

A Charitable Remainder Trust is a special tax-exempt irrevocable trust arrangement written to comply with federal tax laws and regulations. You transfer cash or assets (especially appreciated assets) to the trust and may receive income for life or, if you choose, a certain term of years (not to exceed 20). In fact, the income can be paid over your life, your spouse's life and even your children's and grandchildren's lives.

2. What section of the IRS code governs whether a trust qualifies as a CRT?

IRS code section 664 lists the requirements a trust must meet in order to qualify as a Charitable Remainder Trust. The Charitable Remainder Trust was made possible by the Tax Reform Act of 1969.

3. How much income can the income beneficiary receive?

The minimum payout rate is 5% and the maximum is 50%. The payout rate may be further limited by a 10% remainder interest requirement, which applies only to Charitable Remainder Unitrusts. The present value of the remainder interest passing to charity must equal at least 10% of the value of the gift on the date of contribution.

4. What is my income tax deduction based on?

Transfers to a CRT will generate an income tax deduction for you, the donor, in the year of the contribution. The deduction is based upon the estimated present value of the remainder interest that will ultimately go to the charity. The calculation and the amount of deduction allowed is based upon several factors: Your life expectancy based on your age, if you are the beneficiary of the life income. The number of income beneficiaries you name and their ages - you will generally get less of a tax deduction if you name more than one beneficiary. The amount of income you want of the cash flow generated by your gift (you must take at least a 5% annual return up to a maximum of 50%), and the type of CRT you select -Annuity Trusts and Unitrusts have different formulas for computing the tax -deduction. We are available toll free at 212-427-0320 to help you calculate the deduction you can expect for your contemplated Charitable gift.

5. If I cannot use my deductions in one year, can I carry the excess over to future years?

YES. The remaining deduction is available for five additional years after the initial year of the transfer.

6. Can the income beneficiaries be changed?

NO. An income beneficiary may not be added. However, when the trust is drafted, it may allow for a contingent beneficiary through a special provision. The contingent beneficiary may be removed only by the donor's will and may not be replaced.

7. Will I lose control by using the CRT?

NO. You will gain more control by using a CRT as you will be giving to charity the amount the government would normally take after you have passed. The CRT will allow you to reduce your income and estate taxes, sell what you put in the trust with no capital gains taxes, and replace the trust asset without paying estate taxes with a wealth replacement trust that will allow more money to be passed to your family.

8. Will a transfer to a CRT really avoid capital gains tax on highly appreciated assets?

YES. One of the major reasons why individuals use CRTs is to make charitable donations and to avoid capital gains taxes on the sale of the assets. Because the CRT is tax-exempt, no immediate capital gains tax is realized by you or the trustee. The full value of the investment can be reinvested to generate income. The trust can simply sell the asset and transfer the money into an investment providing a higher yield.

9. How do I replace the asset that would have gone to my heirs?

Donating a valuable asset to charity does not have to reduce the value of your estate. Through the use of a Wealth Replacement Trust you can replace the entire value of the asset donated to charity, allowing the value to pass free of estate and income taxes. You can purchase a Second to Die Life Insurance Policy inside the Wealth Replacement Trust to replace the entire value of the asset, or at a minimum, cover its remainder value. The insurance proceeds are generally not subject to probate and are received by your beneficiaries free from income and estate taxes. Also, the deduction you receive from your CRT may offset a significant part of the insurance cost.

10. What are the tax characteristics of funding a CRT with an Annuity?

The trust itself will pay no income taxes on the earnings and profit; rather, the tax characteristic of the income received by the trust is passed through to the income beneficiary. In other words, income earned by the trust which is ordinary income will be ordinary income to the income beneficiary of the trust. Tax-exempt interest earned by the trust will be tax-exempt interest to the income beneficiary. When the trust earns income comprised of more than one tax characteristic, i.e., ordinary income as well as tax-exempt income, the rules of four-tier accounting apply. Under these rules, the income received by the trust and paid to the income beneficiaries is taxed in the order and the extent received as:

1. ordinary income,
2. capital gain,
3. tax-exempt income, and
4. return of principal.