Helping Your Heirs While Helping Others

A **charitable remainder trust (CRT)** can be a highly effective financial and estate planning tool. The CRT can allow you to: avoid capital gains taxes on highly appreciated assets, however when income is distributed to the income beneficiaries it is taxable; receive an income stream based on the full, fair market value (FMV) of those assets; receive an immediate charitable deduction; and ultimately benefit the charity(ies) of your choice.

Some individuals may be reluctant to transfer significant assets to a CRT because they would rather see their children be the ultimate recipients of the property. However, transferring property to a CRT doesn't necessarily mean your children cannot benefit as well.

Under the appropriate circumstances, and over time, you (the donor) can apply the money you saved in taxes available from your charitable deduction, along with a portion of the CRT's income stream (if necessary), to purchase a life insurance policy inside an **irrevocable life insurance trust (ILIT)**.

After the death of the last income beneficiary, the charity receives the remaining assets in the CRT, while your children generally receive the proceeds of the life insurance policy, free from income and estate taxes, upon the death of the insured in accordance with the terms of the ILIT. In some instances, policy proceeds may be equal to, or even exceed, the value of the transferred property.

General Guidelines

A CRT starts with a contribution of assets—preferably highly appreciated—into an **irrevocable trust**. Once the trust is funded, the **trustee** pays the non-charitable **beneficiaries** (selected by the donor upon establishment) an income each year for their lifetimes, a term of years, or a combination of the two.

If a term of years is involved, the maximum term is 20 years. Income beneficiaries must receive a minimum percentage payout each year equal to at least 5% of the trust's assets, not to exceed 50%. The present value of the **charitable remainder** interest cannot be less than 10% of the fair market value of the contributed asset's value at inception. Within these broad guidelines, you can select a number of flexible payment options designed to help meet your specific financial, estate, and charitable giving objectives.

Additional Benefits

Because a CRT is **tax exempt**, the trustee can sell highly appreciated assets on a tax-free basis and reinvest the full proceeds in other assets more likely to meet the growth and income objectives of the trust.

Assets donated to the trust are removed from your taxable estate, potentially avoiding significant future estate taxation and likely reducing future **probate** costs. Donated assets are also protected from the claims of creditors. This feature may be particularly attractive to business owners concerned about their personal liability or to those who are sensitive about issues related to the division of assets in a divorce.

The charitable deduction available to a donor may be limited according to the type of property donated, the kind of organization(s) ultimately receiving the gift, the donor's overall tax status, the age(s) of the income beneficiary(ies), and the trust's income payout provisions. If a deduction is limited for the current year's tax return, Internal Revenue Service (IRS) rules allow unused amounts to carry forward for up to five additional, consecutive tax years.

Moreover, since donations of appreciated property are no longer preference items for the **alternative minimum tax (AMT)**, donating such property may now be much more advantageous. (Under prior law, the AMT could, in many cases, have significantly trimmed the potential income tax deduction available for donations of appreciated property.)

The Choice is Yours

While most people may be resigned one way or another to the inevitability of taxation, many may be unaware that they have a choice regarding the form in which their contribution to society is fulfilled. When viewed from the perspective of a choice to channel funds directly to select charities rather than through the government, charitable giving takes on a new meaning. The CRT may then become a valuable tool to facilitate your choice. As with all complex financial transactions, you may wish to seek the assistance of your estate planning team, which should include your attorney and financial services professional, to help ensure your wishes are properly met.

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