

CRUT Questions and Answers

Following are frequently asked questions regarding charitable remainder unitrusts:

Q. Are charitable remainder unitrusts recognized by the IRS?

A. Yes, charitable remainder unitrusts were formally created by the Tax Reform Act of 1969 and are described in section 664 of the Internal Revenue Code. Charitable remainder unitrusts are qualified for income, gift, and estate tax purposes. There are more than 80,000 charitable remainder unitrusts in operation today.

Q. Who can receive income from the unitrust?

A. In most cases, income is paid to the donor and the donor's spouse. In addition, other individuals (such as children or grandchildren) can receive income; however, the donor must consider the possible gift and estate tax implications of such transfers.

If you name an individual other than yourself or your spouse as an income recipient of a charitable remainder unitrust, you may trigger gift or estate tax on the transfer. These rules can be fairly complex. Consult your professional advisors.

Q. What is the highest payout rate I can select?

A. The tax rules say the maximum allowable annuity or payout is 50%. As a practical rule, however, most unitrusts carry payout rates of between 5% and 10%.

There are several reasons. First, most charitable remainder unitrusts are designed to pay income to the donor for their lifetimes. A unitrust with a 50% payout rate would quickly exhaust its assets. In the case of a unitrust, most people want their incomes to increase from year to year to offset inflation. To accomplish this, they choose payout rates that, given a conservative investment return, will enable the unitrust to meet its payment obligations and continue to grow.

The second reason is even more important. Recent changes in the tax rules require that in order for a charitable remainder unitrust to be qualified, the present value of the future charitable gift (Which equals the income tax deduction) must be at least 10% of the amount transferred to the unitrust. This rule is designed to ensure that a portion of unitrust ultimately is distributed to charity.

There is no need to worry, however, because tests can be easily performed to ensure qualification prior to a unitrust being created.

Q. What types of assets can be contributed to a charitable remainder unitrust?

A. Although some charitable remainder unitrusts are funded with cash, the majority of unitrusts are funded with highly appreciated assets such as marketable securities, real estate, tangible personal property such as art and other collectibles, or stock in a C-corporation.

Q. What types of assets should NOT be contributed to a charitable remainder unitrust?

A. There are a few types of assets that are not generally compatible with charitable remainder unitrusts. They include real property that is debt-encumbered or that is contaminated with hazardous materials, and assets that produce unrelated business taxable income, such as sole proprietorships, certain partnerships, and some types of real estate.

Q. Can I name more than one charitable beneficiary to receive a remainder interest?

A. Yes, there is no limit on the number of charitable organizations that can benefit from your unitrust. In addition, you can name them irrevocably or reserve the right to change them if you desire. You may also designate how the proceeds will be used.

Q. At what level of financial contribution does a charitable remainder unitrust make sense?

A. A charitable remainder unitrust is an individually designed and drafted unitrust instrument. The unitrust is also individually managed and is required to file annual tax and information returns with the IRS and state tax authorities. The average amount held by charitable remainder unitrusts nationally is approximately \$300,000; however, the availability of automated administration and investment management makes consideration of smaller amounts possible.

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