Life Planning Newsletter
The Law Offices of James A. Busse Jr.
Long Beach CA, Carson City NV.
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In this issue:

Our law firm focuses on Estate and Life Planning for those who wish to preserve their assets for their family. By doing Probate work for our clients we have established Estate Planning methods that are court tested. Because the goal of every person is to have peace of mind their wishes will be carried out, our integrated approach constantly tests the effectiveness of your Estate Plan with actual California and Nevada Cases. Our law firm integrates low cost Probate with coordinated Estate Planning documents to significantly reduce the impact of the State claim for nursing home care.

This newsletter is provided to our clients free of charge via e-mail and on line at [www.jabusse,com](http://www.jabusse.com)

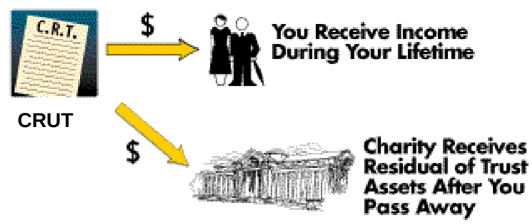
Charitable Giving through Trusts.

Charities fill a wide variety of worthy niches. Domestic violence, training down-and-outs, college giving, Scouts, and others. Endangered species even have their own charities. And due to a 1969 tax law, charities serve another purpose: they help wealthy Americans reduce their tax bill.

A charitable trust allows taxpayers to reduce estate taxes, eliminate capital gains, claim an income tax deduction, and benefit charities (where you have some control over the administration costs) rather than the U.S. Government, where the administrative costs are out of control.

There are a group of IRREVOCABLE trusts in this category. This edition of the Newsletter will cover those generally called Charitable Remainder Uni-Trusts, commonly referred to as a CRUT.

Basically a CRUT works like this:



Charitable Remainder Uni-Trusts do not pay any capital gains taxes on the growth of the Principal in the trust. For this reason, CRUTs are ideal for assets like stocks or property with a low cost basis and high appreciated value. Funding a CRUT with the sale proceeds of highly-appreciated assets (like real estate) allows avoids paying capital gains and gift taxes. Since CRTs have a charitable intent and do not have to pay capital gains, the full value of any assets transfers to the CRUT.

You and your spouse can get income.

The income generated by the principal in the CRUT may be distributed to you and your spouse. The CRUT must distribute at least 5% of the net fair market value of its assets. If the income is not needed, the distributee may elect to defer income through a "makeup provision." However, the CRT's net distributions must eventually equal 5% to be considered valid by the IRS. Remember income tax is paid on the distribution also, the higher the distribution, the lower the charitable contribution allowed.

Income and Estate Taxes

The Principal remaining in the CRUT on the death of the owner CRUT is considered "outside of your taxable estate" by the IRS. Because of this, you may end up saving as much as 48 cents of every dollar you move to the CRT. Plus, you are usually not limited in how much you can contribute by the annual gifting limit or the Estate and Gift Tax Credits. New payments to the CRUT also qualifys for an income tax deduction. The deduction is the present value of the remainder interest to the charity and depends on the type of asset gifted to the CRUT.

Average deductions normally fall in the range of 20-50% against the taxpayer's adjusted gross income. Large deductions may be carried forward for five years.

Retirement Planning

Many clients use Charitable Remainder Uni-Trusts to augment their retirement plan. By establishing a CRUT in the peak earning years, one can make contributions to the CRUT in the form of zero coupon bonds, non-dividend paying growth stocks, or professionally-managed variable annuities. By letting the CRUT grow without taking income from it during the early years, the CRUT can begin making payouts to upon retirement. These payouts can include makeup for any shortfalls in income not received earlier. Unlike IRAs or 401(k) plans, there are no limits on how much you can contribute.

Combining With Other Strategies

CRTs are designed to give the principal to charities when you and your spouse pass away. This bypasses any children, which could lead your heirs feeling slighted.

These feelings of ill-will can be overcome by combining the CRUT with another strategy to "make up the difference" that goes to the charity.

For instance, some large estates combine the CRUT with The Legacy Trust to provide a cash distribution upon the death of the owner. The Legacy Trust then subdivides into individual trusts for each of each named heir.

In this scenario, everyone wins (but probably no one is satisfied). The estate owner receives income streams and tax deductions, the charity gets the principal of the CRUT, and the heirs receive a cash distribution.

Irrevocable Life Insurance Trusts

An irrevocable life insurance trust (ILIT) is a trust that is set up for the purpose of owning a life insurance policy. If the insured is the owner of the policy, the proceeds of the policy will be subject to estate tax on passing. But if ownership is transferred to a life insurance trust, the proceeds will be completely free of estate tax. (The proceeds will be exempt from income tax either way.) Given the current estate tax rate of 46%, a life insurance trust can save the larger estate many dollars in estate taxes. Like the CRUT, the life insurance principal grows tax free. Unlike the CRUT the initial funding is taxed.

However if the owner has a long life projection, the life insurance growth which will overcome the initial tax payments and unlike the CRUT the 100% of the ILIT is distributed tax free to the heirs.

There are some things to consider when thinking about an ILIT. (1) If you borrow from the Insurance Policy you lose the tax benefit of the Trust. Therefore the money placed in the ILIT and the Insurance policy may not be borrowed against or used as collateral for other loans. (2) You may not be trustee of the trust, usually the owner hires a Trustee as a nominal cost per year. (3)The ILIT is irrevocable. Once started the owner does not have the right to get the money back. (4) If the insured transfers an existing policy to an ILIT and dies within the next three years, he will be treated as the owner of the policy and it will be taxed in his estate. and (5) If the policy has not yet endowed, the payments are considered gifts for gift tax purposes. Securities transferred are taxed at the full value of the security. However, you may be able to exempt cash premium payments from gift or estate taxes by setting the life insurance trust up as a Crummey Trust. Then each premium payment can be sheltered by the individual's annual gift tax exclusion, which is $12,000 for a single owner and $24,000 for a couple in 2007 per trust beneficiary.

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