

CRT Checklist



Prepared For
Estate Planning Council of Delaware, Inc.



Table of Contents

Convert Asset into Income Using a Charitable Remainder Trust (CRT)-Fact Sheet	3
Charitable Remainder Trust Checklist	5
Transfer of CRT Trusteeship: A Checklist for Trustees	12

CONVERT ASSET INTO INCOME USING A CHARITABLE REMAINDER TRUST (CRT)-FACT SHEET

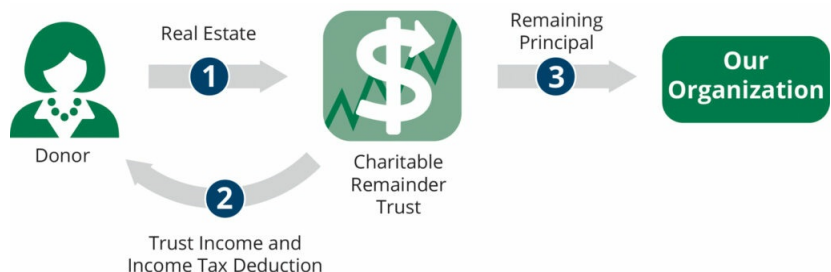
General

Many individuals may be in what's referred to as a "locked-in" position, meaning they hold appreciated and lower yielding, property(e.g., real estate, or marketable securities). However, they are adverse to selling the asset because of the capital gains (possibly federal and state) tax liability.

A charitable remainder trust (CRT) can be used to help escape the "locked-in" position.

What Is a CRT?

A qualified CRT is a "split-interest" gift, in which the donor (or another individual chosen by the donor) receives income from the trust, with the trust principal (remainder) eventually being distributed to a charity. The income payout from the CRT may last for a term of years (not to exceed 20) or for the lifetime of the donor and/or other specified beneficiaries. The trust must make income payouts at least annually. When the trust term expires, the named charity(s) receives the rest of the trust assets.



Leverage of a CRT

With a CRT, a donor can convert an appreciated asset into an income stream, and may:

Significantly increase the donor's income;

Defer capital gains taxes on the transfer of property into the CRT and the subsequent sale of the property by the CRT;

Obtain an immediate federal income tax charitable deduction for donors who itemize (subject to percentage-of-income limitations); and

Enjoy the personal satisfaction of making a significant contribution to a charitable organization.

Eliminate or Defer Capital Gains Tax

Selling appreciated assets typically results in capital gains tax liability on the selling price's excess over the seller's basis. The top federal tax rate on realized capital gains ranges from 20 percent (for the majority of capital assets held for more than one year) to 28 percent (collectibles held greater than one year) to 35 percent (for capital assets held for one year or less). Additionally, higher-income taxpayers could potentially pay a 3.8% surtax on all net investment income—and that includes capital gains. State capital gains tax is in addition to those ranges.

Property that would trigger capital gains can be transferred to a CRT without the donor incurring current capital gains tax when: (1) the donor transfers the property to the trust; and (2) the trustee sells the property. When the trust makes the annual income payouts, part of that payout may be taxed as a long-term capital gain.

Reinvest Gross Proceeds

After a CRT liquidates the appreciated property without incurring capital gains tax, the trust can reinvest the gross proceeds. In addition to income tax avoidance, the donor will also qualify for a federal income tax charitable deduction based on the present value of the charity's remainder interest. The donor can invest the tax savings and receive the income payout from the CRT and receive a sizable increase in cash flow.

Comparison of Sale of Zero Basis Securities to Use of Charitable Remainder Annuity Trust			
Alternative	Capital Gains Tax on Sale	After Tax Amount Available for Investment	Income (5%)
Direct Sale of Securities	\$20,000	\$80,000	\$4,000
Charitable Remainder Annuity Trust	\$0	\$100,000	\$5,000

The use of a charitable remainder trust allows the donor to retain all of the proceeds from the appreciated stock's sale for reinvestment. If the individual had sold the stock directly, he would have only the after-tax proceeds available for investment.

Charitable Remainder Trust Checklist

Introduction

When you develop your relationship with a prospective donor, a primary focus is on learning not only about the donor's philanthropic goals, and also their personal and family circumstances and financial planning objectives. It is powerful to know why the donor is supporting children or grandchildren, is planning to downsize in preparation for retirement, needs an income tax deduction, or wants to diversify assets in a tax-efficient way.

During this discovery process, you often identify potential assets that could be used to fund the gift. If the asset identified to fund the gift is illiquid or unusual in some way, your charity will need to perform appropriate due diligence. A thoughtful exploration of the donor's objectives and the potential funding assets helps ensure that you put the right proposal in front of the donor at the right time.

Certain details required to establish the CRT might not have come out naturally in previously conversations, thus the CRT checklist is designed to help you gather these details in a concise and organized manner. There are five categories of information on the checklist:

1. Gift Acceptance
2. Donors Information
3. Beneficiary Information
4. Asset Information
5. Finalize Gift Paperwork

1. Gift Acceptance

- First, examine your organization's Gift Acceptance policies in regard to charitable remainder trusts.
- Will your organization serve as trustee? Will they serve as trustee when the funding assets are something less liquid than cash or publically traded stocks?

- Discuss with donor who will serve as the initial trustee of a FLIP Charitable Remainder Unitrust
- Discuss with donor who will draft the initial trust document. If your organization will draft the document communicate the importance of the donor's attorney reviewing the final draft. A letter of understanding is an important document include in this process.

2. Donors Information

The donor(s) are:

- Individual Married couple Business entity Estate Personal information:

Donor #1

Name: _____ SSN: _____

Address: _____

Phone number: _____

Country of citizenship: U.S. Other: _____

Country of legal residence: U.S. Other: _____

Donor #2

Name: _____ SSN: _____

Address: _____

Phone number: _____

Country of citizenship: U.S. Other: _____

Country of legal residence: U.S. Other: _____

- Is the donor establishing this trust to fulfill a legally binding pledge? Yes No
Recall that establishing a trust to fulfill a legally binding pledge is an act of self-dealing that could subject the donor to punitive excise taxes.

If the donor is deceased and this is a testamentary trust, provide the donor's date of death: _____

3. Beneficiary Information

The beneficiaries(s) are:

- Individual a Married couple Multiple individuals Trust Business entity
 Charitable Organization

Beneficiary Personal information:

Beneficiary #1

Name: _____ SSN: _____

Date of Birth: _____

- Primary beneficiary Secondary beneficiary Joint beneficiary

Address: _____

Relationship to the donor(s)? Spouse Child Grandchild

Other (please describe): _____

Country of citizenship: U.S. Other: _____

Beneficiary #2

Name: _____ SSN: _____

Date of Birth: _____

- Primary beneficiary Secondary beneficiary Joint beneficiary

Address: _____

Relationship to the donor(s)? Spouse Child Grandchild

Other (please describe): _____

Country of citizenship: U.S. Other: _____

Information for additional beneficiaries continued on separate sheet.

4. Asset Information

Expect that your organization will have to conduct due diligence on the asset(s) donated to the trust. This is particularly the case with assets other than cash and marketable securities. (See the Gift Wizard Chapters Pertaining to those Assets).

Trust is being funded with: Cash Publicly traded securities

Closely held Securities-C corporation Real property

Tangible personal property Business Interests-Limited Partnership

Business interests- LLC Business Interests-Sub-S

Important: In Gift Wizard, review the asset chapter, and checklist, for the specific type of asset the donor is considering.

Asset is owned by: Donor Donor's spouse Jointly by spouses

Business entity

If funding with a non-cash asset:

Category of Asset Type: _____

Initial Cost of Property: _____

Date of Acquisition: _____

Number of Shares (if applicable): _____

Name of Custodian (if applicable): _____

If the donor(s) is (are) funding with publicly traded securities, state the name, CUSIP or ticker symbol, number of shares, approximate value, cost basis, and acquisition date for each security:

Name of Asset	CUSIP or Ticker Symbol	Number of Shares	Approximate Value	Cost Basis	Acquisition Date

(Continue on separate page if necessary)

Are there any restrictions on the sale of the asset(s)? Yes No

Trust Information

(This information should be collected during the phase of drafting the trust instrument.)

What type of trust is this? CRUT CRAT "Flip" CRUT NICRUT NIMCRUT

Trust payout percentage: _____

Payment frequency: Monthly Quarterly Semi-annually Annually

Timing of payment: At end of period At start of period

Other: _____

Gift purpose: _____

If the beneficiary(ies) is (are) anyone other than the donor or the donor's spouse, has the donor retained a testamentary right to revoke the beneficiary(ies)'s interest?

Yes No

Has the trust instrument been reviewed by the donor's legal counsel?

Yes No

Has the trust instrument been reviewed by the trustee's legal counsel?

Yes No

When Transferring Assets

- Trustee opens new trust account at financial institution
- The final trust agreement will need to be signed by all parties.
- Send a copy of the executed trust agreement to the trustee's financial institution
- Trustee is responsible to transfer assets (in the case of cash stocks) or to title illiquid assets in the name of the trust
- Confirm with the donor that the assets were received.

5. Finalize Gift Paperwork

Prepare the final gift paperwork including:

- Formal acknowledgement letter
- Executed Trust Agreement
- Executed Letter of Understanding
- Direct Deposit (ACH) forms (to pay income to beneficiary(s))
- A statement showing the estimated charitable income tax deduction. Note: It is the donor's duty to calculate, report, and substantiate their own charitable deduction; however, some charities choose to provide the donor certain tax-related information and sample 8283 tax forms as a courtesy.

- 7520 Rate Election Statement (when the charitable deduction uses a rate other than the discount rate in effect in the month of the gift)
- Sample Form 8283 (the donor must file a Form 8283 for gifts of non-cash assets)
- Sample Form 709 (the donor must file a Form 709 to report all gifts made in a calendar year. The donor will get a deduction for irrevocable gifts to charity.)
- Other Documents? _____

TRANSFER OF CRT TRUSTEESHIP: A CHECKLIST FOR TRUSTEES

Transferring management and administration of existing trusts to a successor trustee involves gathering and reviewing data, documents, and information. This checklist is designed to let you know what information our organization will need from you, when we will need it, and why it matters. Depending on the circumstances of your trust, we might ask for additional information not listed below.

What Trustee Needs

- History of the trust
- Reasons why the trust is being transferred
- Where and how the trust is invested
- Name of the trust, the size of the trust, and the payout rate
- Beneficiary information
- Year-to-date payment information
- Information on any known issues

This information helps us understand your trust's history, where it is currently held and how it is invested, whom it benefits, and your objectives in transferring trusteeship to our organization. This information will also help us determine whether our gift acceptance policies will allow us to serve as successor trustee of your trust.

Legal Documents

- Trust document and all amendments
- Court orders and settlements
- Documents related to any prior trustees (e.g., resignation, indemnification, acceptance)

This information helps us confirm whether the trust document or state law permits our organization to serve as successor trustee and identify procedures that must be followed to transfer trusteeship. We will review the trust agreement and related documents to verify adherence to the requirements for a charitable remainder trust and to note any provisions that might need to be discussed.

Tax Documents

- Federal and state tax returns for the prior two years
- Ancillary tax documents, e.g., Form 1099

This information helps us review the trust accounting and identify any areas of concern for discussion. If our organization agrees to become a successor trustee, this information will help us file future trust tax returns.

Asset Information

- Current asset statement, including ticker symbols and CUSIPs
- Date of acquisition and cost basis for all assets by tax lot
- Year-to-date transaction statements
- Last full year of monthly custody statements
- List of original funding asset(s) and additions, if any
- List of any unusual assets held by the trust (e.g., non-marketable securities)

This information helps us understand what the trust owns, where and how the assets are held, and what gifts were made and when. If a trust owns unique assets, this information helps us identify and manage possible issues related to those assets.

Documents to Change the Trustee

- Prior trustee resignation document
- Appointment of new trustee document
- [Related legal documents, depending on the circumstances](#)

Formally signed documents transferring trusteeship from the prior trustee to our organization are required. Our organization will help you work with your counsel to draft and execute these documents.

Other Documents

Any custody or tax statements produced after the transfer of trusteeship to our organization.

All documents related to the trust should be forwarded to our organization for accurate administration and proper investment of the trust. Statements from the prior custodian should be forwarded until the account has a zero balance.