



## CHARITABLE REMAINDER TRUST

- Goals
  - Diversify out of low-basis, highly appreciated securities or real estate with low income yield, with increased current income.
  - Avoid capital gains tax on sale of property.
  - Donor wishes to retain control over reinvested assets.
  - Remove appreciating property from estate.
  - Provide security for children by planning for estate tax.
  - Charitably inclined.
- Plan
  - Create a Charitable Remainder Trust in which the Donor (and perhaps spouse) retains a lifetime income interest, and charity (or family charitable foundation) receives the remainder of the Trust assets after death of Donor (and perhaps spouse) (I.R.C. 664(d)).
  - Donor transfers appreciated property to Trust.
  - Trust subsequently sells property.
- Benefits/Tax Considerations
  - No capital gains tax on sale of property (all the sale proceeds can be reinvested).
  - More income to client than if client had sold the property and reinvested after-tax sale proceeds.

- Income tax deduction equal to present value of the remainder interest which will pass to charity.
  - Deduction limited to 30% of client's adjusted gross income with unused portion carried forward for up to 5 years (I.R.C. 170(b)).
  - If appreciated property is transferred to the Trust, distributions from the Trust to Donor (income beneficiary) will first constitute capital gain to the extent of unrealized appreciation in property when contributed to trust.
  - Donor's income (cash flow) may be enhanced due to avoidance of capital gains tax.
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- Other Considerations
    - Unitrust vs. Annuity Trust - unitrust is a hedge against inflation (a fixed percentage of the assets revalued annually); annuity trust (fixed dollar amount).
    - Use unitrust with net income and makeup provision for clients who wish to use trust as a supplemental retirement account.
    - Consider an annuity trust with a high payout if client can transfer non-appreciated property to trust; consider reinvesting in tax exempt property so as to produce a higher yield on a totally tax free basis.