Innovative Examples of Charitable Remainder Trusts

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Charitable Remainder Trusts

	2012	2011	2010	1999
# of Returns				
CRUT	91,250	93,828	93,831	64,923
CRAT	14,616	15,862	16,937	20,137
Total Assets				
CRUT	$92B	$98B	$97B	$64B
CRAT	$6.5B	$7.2B	$7.5B	$8.6B

Source: IRS Split Interest Trust Statistics

Charitable Remainder Trusts Can:

- By-Pass Capital Gains Tax/Ordinary Income
- Increase Income
- Charitable Deduction

Annuity Trust

- Flat dollar amount
- 5% Probability
- No additional contributions
- High deductions

Unitrust

- % Payout -varies
- Additional Contributions
- "Net income" provisions
- Revalue assets

CRT Considerations:

- The trust must be Irrevocable
- Permissible Income Beneficiaries
  - At least one non-charitable income beneficiary
  - Must be living when trust is created
  - May be a legal entity or a class of persons
- Payout to Beneficiaries
  - Made jointly and/or individually to successor beneficiaries
  - For life or a term of years not to exceed 20 years

CRT Considerations:

- Taxation of Payout – four tier system
  - First, current and accumulated ordinary income
  - Second, capital gain income
  - Third, tax-exempt income, and
  - Fourth, trust corpus
- A qualified CRT is not itself taxed
- No "Self-Dealing" between Trust and Donor or Donor's Family

CRT Considerations:

- Permissible Trustees
  - Commercial Trustee
  - An unrelated third person
  - The Donor
  - A Charitable Organization
- Gift Tax Implications
  - The gift to an income beneficiary other than the donor or a spouse is taxable

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CRT Considerations:

- Estate Tax Implications
  - Free of estate taxes for spouses
  - For other income beneficiaries there may be a taxable transfer of the present value of the non-charitable beneficiaries income interest

- The payout rate must be at least 5%, but no more than 50% of the value of the trust

CRT Considerations:

- The present value of the charitable remainder must be at least 10% of the net fair value of the assets transferred into the trust on the date of the gift.

- 5% Probability Test for CRAT. If the chances are greater than 5% that the income beneficiaries will live long enough to exhaust the fund the CRAT does not qualify. Restricts payouts to no higher than the AFR rate.

CRUT Options

Standard – the payout amount will vary year to year as the value of the trust changes.

5% CRUT

Year	Value of Trust Assets	Required Payout
2015	$100,000	$5,000
2016	$110,000	$5,500
2017	$ 90,000	$4,500
2018	$120,000	$6,000

CRUT Options

Net Income – the payout amount will the lesser of the stated payout amount or the net trust income.

5% NICRUT

Year	Value of Trust Assets	Payout Amount	Trust Income	Required Payout
2015	$100,000	$5,000	$6,000	$5,000
2016	$110,000	$5,500	$5,000	$5,000
2017	$ 90,000	$4,500	$5,000	$4,500
2018	$120,000	$6,000	$6,000	$6,000

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CRUT Options

Net Income with Makeup – allows to make up prior years' deficiencies in payout to the extent current income exceeds the payout amount.

5% NIMCRUT

Year	Value of Trust Assets	Payout Amount	Trust Income	Required Payout
2014	$100,000	$5,000	$6,000	$5,000
2015	$110,000	$5,500	$5,000	$5,000
2016	$ 90,000	$4,500	$6,000	$5,000
2017	$120,000	$6,000	$5,500	$5,500
2018	$110,000	$5,500	$5,800	$5,800

CRUT Options

FLIP – allows a net income trust to flip to a standard trust upon the occurrence of a specific triggering event, whichmust be outside the control of the trustee or any other person. Examples include:

- Beneficiary attaining a specific age
- Marriage
- Divorce
- Death
- Birth
- Sale of an unmarketable asset, such as real estate

Case Study I

- Jim, Age 82; Virginia, Age 81
- Owned 160 acres of irrigated crop land as an investment for over 20 years.
- Desire to simplify their lives <u>and</u> estate.
- Capitalize on record high value of farm land and reduce or minimize capital gains taxes.
- Willing to consider some charitable gifting but did not want to gift all of the land.
- Interested in increasing income.
- Wanted current tenant to have an opportunity to buy the land.

Case Study I

- Consulted with estate planning attorney, CPA, and Gift Planner to help them arrive at a plan that best met their goals and to help implement the plan
- Considered a Private Foundation.
- Decided to jointly sell the land with the CRUT. Use the charitable deduction to offset the capital gains on the land sold outright. Flexibility to use the CRUT income to make charitable gifts.
- After CRUT funded with crop land made an additional contribution of a condominium.
- Designated the charitable remainder to their church's endowment and to a donor-advised fund with children as the advisors.

Charitable Remainder Trust

Ages 82 & 81

Real Estate Value (80 Acres)	$800,000
Cost Basis ($1,850/acre)	$148,000
By-Pass Capital Gain Tax	$ 97,800
Charitable Deduction	$394,800
First Year CRUT Income @7%*	$ 56,000

*Income based upon value of trust

Case Study II

- Ed, Age 67; Barb, Age 67
- Life long ranchers with 6 children. Want their children to inherit the 12,000 acre ranch. Looking to slow down. Plan to rent out the ranch land in 2016.
- Selling off their herd to take advantage of record high prices. $1M of taxable income from the sale of cattle in first three months of 2015
- Selling 220 heifers with an approximate value of $500,000.
- No estate plan
- No charitable giving experience
- Does not like to pay anymore in taxes than is absolutely necessary.

Case Study II

- Investment Advisor/CPA raised the question of paying estate taxes and paying over 50% in taxes on the sale of cattle.
- Client willing to meet with estate planning attorney referred by advisor.
- With an estate plan implemented the attorney and advisor brought charitable gift planner to the discussion to share information about a CRT funded with cattle.
- Prior to the cattle auction a CRUT agreement and DAF agreement were executed.
- CRUT delivered 219 black heifers to livestock auction. Net "tax-free" sale proceeds = $526,000.
- Donors now considering gifting the annual income from CRUT.

Ag Commodities: Sale vs. Life Income Gift

SALE			LIFE INCOME GIFT	
Sale of Commodity	$526,000		Gift of Commodity	$526,000
Less federal, state & self-employment taxes (59.6%)	(313,496)		Less tax costs	0
Net Cash to Invest	$212,504		Net Cash Invested by CRUT	$526,000
Annual yield	x 5%		Annual Payout by CRT	x 5%
Annual Income	$ 10,625		Annual Income	$ 26,300

Tangible Personal Property Gifts and Charitable Deduction

- The transfer of assets into a CRT creates an “intervening interest” under Sec. 170 (a)(3). This causes the deduction to be delayed until the asset is sold.
- Unrelated use regulation. Tangible personal property in a CRT is always deemed to be an unrelated use. The deduction is limited to cost basis times the applicable CRT factor.
- CRT’s funded with tangible personal property will pay out only ordinary income.
- Even without a deduction a “tax-free” sale provides substantial savings.

Case Study III

- Jim, Age 76; Mitzi, Age 75
- Family owned business with low basis assets, each spouse owns 50% of business.
- Jim dies, in effect leaving the business to Mitzi with no business succession plan in place.
- After six months Mitzi realizes she does not have the energy to run the business, still grieving and desiring to spend more time with her family since realizing “life is short.”
- Decides to sell the business

Case Study III

- Desires to minimize taxation upon the sale, wants to provide a tax efficient inheritance for her children and if possible would like to help her favorite charitable organizations.
- In consultation with her attorney and CPA she transfers her 50% ownership interest to the CRT.
- Creates an Irrevocable Life Insurance Trust to hold a life insurance policy on her life that replace assets placed in CRT. Death benefit will be tax-free to her family with proper and documented Crummey notices to children annually.
- CRT and Mitzi, as successor trustee of Jim's Trust, sell the business.

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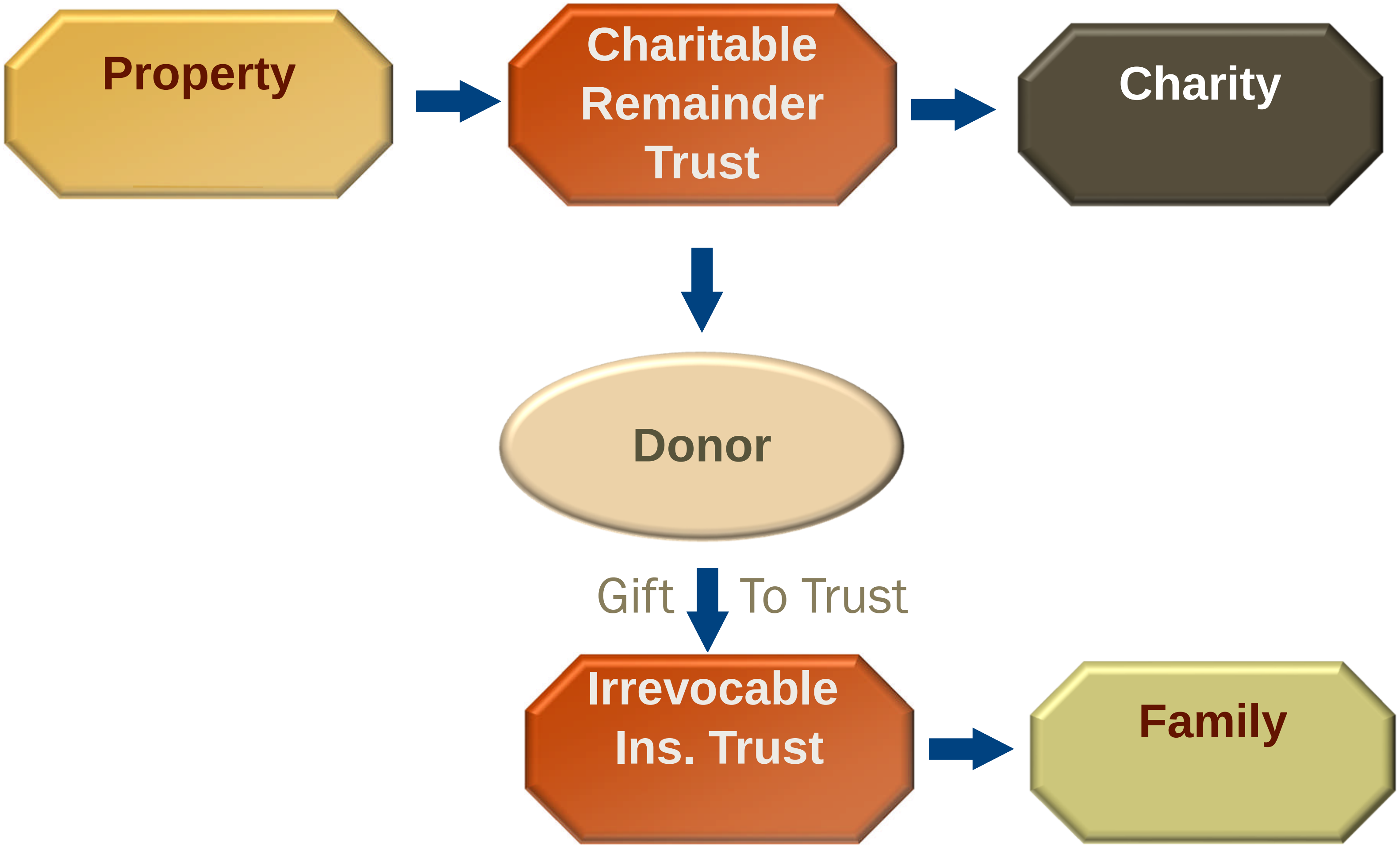
Wealth Replacement Trust



Summary of Distributions to Family and Charity

Description	Children (4)	Charity
Jim's Estate	$1,454,488	0
Cash Gifts by Mitzi	$2,000,000	0
ILIT	$2,000,000	0
Roth IRA	$2,654,925	0*
Mitzi's Estate	$1,000,000	0
CRT	0	$1,953,680
Total	$11,063,093	$1,953,680

$2,277,354/Child net after death taxes and administrative costs paid.

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Thank You