

Charitable Remainder Trusts Funded with Real Estate (Article 5 in a series of 6)

The Charitable Remainder Trust (CRT) is one of the most popular gift planning techniques for today's donors. By funding a CRT with real estate the donor can possibly avoid or postpone capital gains tax liability. The trust invests the proceeds from the sale of real estate. The trust will pay income to the donor (and/or others as designated) for life or a term not to exceed 20 years. Donors are able to increase their annual cash flow, avoid an immediate capital gains tax, and receive a charitable tax deduction while removing an asset from their gross estate and eliminating the burdens of owning a particular property.

General Considerations

Real estate may or may not be suitable for transfer to a CRT and if so, is certainly more appropriately transferred to certain types of CRTs.

Real estate should not be transferred to a charitable remainder annuity trust (CRAT) or to a standard charitable remainder unitrust (SCRUT) unless:

1. Each year the property produces enough income to cover trust expenses and the income payment obligation.
2. There is virtual certainty that the trust will be able to liquidate the real estate prior to the end of the first taxable year of the trust, or the trust is funded not only with real estate, but also with liquid assets sufficient to ensure the trust's obligations can be met without resorting to deeding small fractions of the property to beneficiaries.

When real estate is to be contributed, a net income charitable remainder unitrust (NICRUT) or a net income with make-up provision charitable unitrust (NIMCRUT) with a "flip" provision is preferred. Such a trust affords the trustee an indefinite amount of time to sell the property without concern about making any unitrust payments, and once the real estate is liquidated the trustee is then permitted to invest with the objective of maximizing total return.

Selecting a Trustee

The three most common trustee options are (1) a charity, such as a Community Foundation, that is also a remainder beneficiary, (2) the donor themselves, and (3) a fiduciary. The charity as the trustee will need to take the time to do a thorough review of the advisability of accepting any particular piece of property. If a donor doesn't want to assume ongoing trust administration, but is concerned that an external trustee might not obtain their perceived best price for the property, the donor could serve as trustee initially, but then resign or enter into a co-trustee relationship with the charity, once the trust sold the property. The charity may prefer the donor to serve as trustee prior to the sale of the property.

Tax Implications

1. **Income and Gift Tax Deductions:** The donor receives income and gift tax deductions for the present value of the remainder interest of the trust. If the deduction exceeds \$5,000, which is almost always the case with a charitable remainder trust, a qualified appraisal and submission of Form 8283 will be required.
2. **Recognition of a Capital Gain:** One of the main advantages of a charitable remainder trust is the fact that the trust is tax-exempt and, consequently, will NOT be taxed on the realized gain when it sells appreciated property. Of course, to the extent the beneficiaries' income consists of realized gain, it will be taxed to them as received.
3. **Estate Tax Deduction:** If the trustor is the only beneficiary, the entire value of the trust will be included in the estate at death, but the trustor's estate will be allowed an estate tax charitable deduction for the remainder passing to charity, with the result that no estate tax will be payable on trust assets. If the trustor's spouse is the only income beneficiary, other than the trustor, the spouse's income interest automatically qualifies for the estate tax marital deduction. Again no estate tax will be payable on trust assets.

If the trustor is the initial beneficiary and is succeeded by one or more other non-spousal beneficiaries, and the trustor has retained the right to revoke by will the successor(s) interest(s), the trustor will not have made a completed gift to that (those) beneficiary(ies) when the trust is created and will not have to pay any gift tax. The entire value of the trust will be included in the estate at death, but the estate will be allowed an estate charitable deduction for the value of the charitable remainder interest.

Gift of Mortgaged Property

The transfer of mortgaged property to a CRT has many consequences. Charitable organizations including Community Foundations are often advised not to accept mortgaged property for CRTs.

Charitable Remainder Trust Funded with a Fractional Interest in Real Estate

Donors may transfer less than their entire interest in real estate to a CRT.



The Planned Giving Design Center is a comprehensive resource providing charitable gift and tax planning information for donors and professional advisors. The Community Foundation of North Central Wisconsin is proud to sponsor this site for you and your clients. Stay up-to-date on changes in charitable giving, estate planning and tax law with your FREE subscription to the Planned Giving Design Center.

Trust the Planned Giving Design Center –
Register today at www.pgdc.com/wis

Charitable IRA Rollover a Success

According to an article published by InvestmentNews.com, IRA investors have taken advantage of provisions contained in the Pension Protection Act of 2006 to donate at least \$75 million to charity. In an interview with the National Committee on Planned Giving, the committee stated that 4,193 IRA gifts had been reported as of June 4 with an average value of \$17,917.

To access the complete article visit the Planned Giving Design Center at: <http://www.pgdc.com/wis/item/?itemID=419370>

AdvisorImpact

A Quarterly Newsletter for Professional Advisors

The Community Foundation offers a variety of fund options to meet your clients' needs including: Unrestricted Funds, Donor Advised Funds, Restricted Funds, Field of Interest Funds, Scholarship Funds and Project Funds.

Visit our website at www.cfoncw.org or contact our office to discover how easy it is for your clients to establish a permanent endowment fund within the Community Foundation.



The Community Foundation of North Central Wisconsin is confirmed in compliance with National Standards for U.S. Community Foundations.



The Community Foundation of North Central Wisconsin is a nonprofit organization that exists to enrich life for present and future generations.

If you would like to learn more about how we can work together to meet your client's philanthropic needs, contact Jean Tehan, executive director of the Community Foundation.

Phone: 715.845.9555
 Toll free: 1.888.845.9223
 E-Mail: jean@cfoncw.org
 Website: www.cfoncw.org

ADDRESS SERVICE REQUESTED

500 Third Street • Suite 310 • Wausau, WI 54403

OF NORTH CENTRAL WISCONSIN



Nonprofit
 U.S. POSTAGE
 PAID
 Wausau, WI
 Permit No. 219