

Use of Trusts

Charitable Remainder Unitrusts

A Charitable Remainder Unitrust (CRUT) guarantees you or your children an annuity for life or for a term of years, while generating a substantial current income tax deduction. Substantially appreciated assets are candidates for contribution to a CRUT. The advantage of a CRUT is that it increases your cash flow while deferring capital gains taxes. For example, imagine that you have appreciated stock with a Fair Market Value (FMV) of \$1 million which pays a 2% annual dividend. This is the average yield for S&P 500 stocks. Your basis in the stock is \$100K. You can structure a CRUT to pay out a 5% annual distribution for 20 years. The CRUT can sell the stock immediately and diversify its investments. The CRUT will pay you \$50,000 per year, and the otherwise current \$900K capital gain will be deferred over the next 18 years. At present interest rates, you would receive a charitable deduction in excess of \$350,000 against this year's taxable income, even though you expect to receive the entire \$1 million back over the 20 year term. We can help you structure a CRUT or other charitable trusts to accomplish your objectives.

In considering an annuity for life versus a fixed term, we prefer a fixed term. This removes the actuarial bet from the transaction and makes clearer what each party will receive.

Irrevocable Trusts

Irrevocable trusts freeze the transfer value of appreciating assets, including Life Insurance policies or closely-held businesses. Transfers to an irrevocable trust are gifts as of the date of transfer, but special rules apply as to whether gift tax exemptions are available. Note that many states have no gift tax and the use of irrevocable trusts can have a significant effect on state death taxes. Also note that some states have an inheritance tax that only applies to non-lineal descendants. These taxes can be avoided with irrevocable trusts.

Special Needs Trusts

Federal and state law provide many forms of assistance to indigent people, including prescription medication coverage, in-home care, assisted living and nursing home care. These benefits are "means tested" and individuals must "spend down" their own resources before they are eligible for assistance. By the use of properly drafted Special Needs Trusts, individuals can provide extra benefits (above what the government provides) for their loved ones. Understandably, the government attempts to undermine these structures and careful drafting is key.

Spend-Thrift Trusts

A Spend-Thrift trust is usually created to extend the life of funds which might be squandered in the hands of the receiver. The trust is structured to protect the funds, as much as possible, from the claims of third party creditors.