

## **Accelerated Charitable Remainder Trusts Remain a Viable Option**

You can increase the numerous benefits that a typical charitable remainder trust (CRT) provides by using an accelerated CRT to speed up the distribution of benefits.

An accelerated CRT can minimize the cost of helping your favorite charity by increasing the size of the annual annuity payment to you and decreasing the time over which these payments are made. The charity benefits by receiving its remainder interest sooner than it would under a typical CRT. If you are currently considering selling highly appreciated assets and you are charitably inclined, you should consider taking advantage of an accelerated CRT.

### **The Particulars**

You establish a typical CRT by placing property in a trust that pays an annual annuity to you (or a beneficiary selected by you) for life or for a period not to exceed 20 years. In all CRTs, the payment to you (or to the selected beneficiary) is either:

1. A fixed amount based on at least 5% (but not more than 50%) of the value of assets transferred to the trust at the time of creation (a charitable remainder annuity trust), or
2. A fixed percentage (at least 5% but not more than 50%) of the trust assets as valued each year (a charitable remainder unitrust -- CRUT).

In an accelerated CRT, the payout amount is much larger than for a typical CRT. You may choose an annual payout rate of up to 50% for an accelerated CRT compared with the typical payout rate for other CRTs of between 5% and 15%. The high payout rate for an accelerated CRT is usually based on a percentage of the assets revalued each year (a unitrust arrangement). This still allows compliance with the Internal Revenue Code requirement that the present value of the remainder interest that will pass to charity must be at least 10% of the value of the trust assets.

Instead of payments for life, you select a shorter term for an accelerated CRT. Accordingly, rather than having a CRT make annuity payments to you for your lifetime or for 15 or 20 years, you would receive larger payments for a few -- perhaps three or four -- years.

### **Rules and Restrictions**

Some limits restrict structuring an accelerated CRT. The IRS tightened rules on accelerated CRTs two years ago because some were misusing CRTs to benefit themselves at the charity's expense. The rules provide that the benefit to the charity determined as of the date of the CRT's creation must be at least 10% of the trust asset's value as of that same date. In addition, the unitrust payout rate cannot exceed 50%. If the CRT is a CRUT, the annuity amount cannot be more than 50% of the trust property's initial net fair market value. These limitations address abusive CRTs that provided for extremely high payout rates of 80% or more and short trust terms (such as two years). The IRS now severely limits the ability of CRTs to make payments for one tax year shortly after the end of that taxable year. This prevents CRTs from stacking payments in a later tax year to gain favorable tax treatment on those payments.

## **The Up Side**

The new restrictions also curtailed but did not eliminate the favorable tax treatment of accelerated CRTs. Payments made to you during the term of the CRT will probably be taxable to you. Payments to you will result in ordinary income from the trust, which will be taxed to you to the extent the trust has such income. If there is no ordinary income, payments will result in short-term and then long-term capital gains. To the extent the payments exceed those types of income, the payments will be treated as a tax-free return of principal. Thus a high payout rate may allow you or the beneficiary to receive a substantial portion of the payments tax free.

When you create a CRT, you are entitled to receive a charitable deduction for the current amount that will pass to charity. This amount is valued on the date you create the CRT.

An accelerated CRT's combined tax advantages can be beneficial. Instituting one can result in almost the same position that you would be in had you simply sold the property, paid the tax and reinvested the proceeds. The advantage of an accelerated CRT is that you are able to leave a large amount of the tax savings to charity. You are essentially able to make a gift to charity at little cost to you. In contrast, without an accelerated CRT, your cost of making a gift to charity could be much higher, especially if you used after-tax dollars to fund the gift.

## **A Strategy Worth Considering**

Accelerated CRTs give you a way to do well by doing good, especially if you are planning to cash in on highly appreciated assets. But, the rules and restrictions involved in making those mutually beneficial gifts to charity can be quite complex. We would be glad to talk to you about how an accelerated CRT can benefit both you and your favorite charity. Please contact us with any questions or concerns you may have.