Halliday Private Trust
Integrated Trust Solutions for Clients

Trust Connection

A Monthly Report of Trust News and Information

May 2019

Welcome to *Trust Connection*, our monthly newsletter highlighting Trust news and information. Each month we will feature timely articles of interest.

About Us

At Halliday Private Trust, it is our mission to assist our clients in the process of providing solutions, specifically through a wide range of financial advice.

Since 1982, we have utilized a full spectrum of financial services to help our clients navigate every major hurdle in their financial lives. Because we are an independent financial services firm, we utilize an open architecture approach to locating the most suitable investment options for our clients.

Our role is to help clients make smart decisions about their money. We understand that each client has unique needs and requires personalized solutions based on their goals, objectives and concerns.

The Charitable Remainder Trust: A Versatile Tool for the Tax-Savvy Philanthropist

The charitable remainder trust, or CRT, is the last bastion of a bygone era of charitable tax incentives. Some might say the CRT is the final, true charitable tax incentive available to those with the means to utilize it.

The CRT remains one of the most effective ways for a philanthropic-minded grantor to provide an income stream for a beneficiary, while simultaneously providing an income tax break and mitigating the capital-gains impact of appreciated assets. No matter how this type of trust is implemented in an estate plan, it is an enormously important tool.

In simple terms, a CRT is an irrevocable trust that is held for a specific term for the benefit of a named beneficiary or set of beneficiaries (which can include the grantor), and which distributes to a named charitable remainder beneficiary upon the end of the specific term. This type of trust is defined and governed under section 26 CFR 1.664-1 of the tax code.

To clarify this definition, following are some of the ways its four main elements can vary:

1. An irrevocable trust is any association by which one party (the grantor) gives assets to a second party (the trustee) to hold for the benefit of a third party or parties (the beneficiary or beneficiaries). The trust agreement governs the trustee's actions. The trustee has a fiduciary, or heightened, responsibility to abide by the terms of the agreement. Assets held in trust are considered separate and distinct from the assets of the grantor, which is an especially important idea when considering the implications of using a CRT.

2. Held for a "specific term" means the trust exists for an identifiable length of time. In the case of a CRT, this specific term can either be a set length of time (generally not longer than 20 years) or the lifetime of the individual(s) named as beneficiaries of the trust, or possibly a combination of these two ideas. The key to defining a specific term is that the end of the term must be finite and identifiable.

3. Held for the "benefit of a named beneficiary" or set of beneficiaries means the trust assets, at least during the specific term, are to be used for the current beneficiaries named in the trust. At least one of the current beneficiaries of a CRT must not be a charity, and the trustee must distribute funds to the current beneficiary annually at minimum. CRT can have a few different iterations, but by far the two most common are the Unitrust (CRUT) and the Annuity Trust (CRAT).

In the CRUT model, the trustee makes a calculation annually (or more frequently) to determine a percentage of the total value of the trust that the trustee must distribute to the beneficiary. A common example of this is "5% of the market value of the trust as calculated on the December

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A LOCAL TRUST SOLUTION

Call us today at (800) 786-1598 to learn more about working with Halliday Private Trust.

For information and assistance, please feel free to contact one of our Trust Advisors:

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31 of the preceding year." CRUTs allow the grantor, or any other party, to make additional contributions to the trust if he or she so desires.

The CRAT model requires distributions of an annuity amount, or "sum certain," defined in the trust agreement, as opposed to a calculation made annually. Generally, a CRUT provides more flexibility since the income increases or decreases over time with the value of the trust while the CRAT method is more rigid but easier to administer. CRATs do not allow for additional contributions by the grantor or any other party.

4. The last element, distribution to a "named charitable remainder beneficiary," gives the CRT its name. This element has many variants in its execution and allows significant innovation and strategy in its implementation. The fact that the grantor is giving a qualified charitable institution a remainder beneficial interest in this trust provides the basis for the tax incentives that a CRT can provide.

The trust agreement can be drafted in a way to allow for flexibility in the naming of the charitable remainder beneficiary. Over the course of a person's life, or more importantly the term of the trust agreement, a grantor's preferred charitable cause may change, a charity may go out of business, or some other event may occur that would cause the grantor to change her or his mind about the charity named in the trust.

Because of this uncertainty, it is important to determine whether the language of the trust allows for the grantor, or a grantor's appointee, to change the remainder beneficiary under any circumstance. One modern innovation involves having the grantor name the grantor's Donor Advised Fund as the remainder beneficiary, which allows for similar flexibility but with the added tax incentives and control that a DAF provides.

Beyond the charitable intent of the grantor, the other two primary reasons behind the intent to create a CRT are current income tax deductions and reduction or outright avoidance of capital gains tax for highly appreciated assets.

The current income tax deduction is based on a calculation to determine the difference between the present value of the calculated income stream to the beneficiaries over the specified term of the trust and the total value of the assets transferred into the trust. This calculation can vary based on the distribution provisions (as well as whether it's a CRUT or CRAT), but it can often result in a significant income tax deduction for the grantor. Federal regulation requires that the charitable remainder beneficiary be projected to receive at least 10% of the initial value of the trust, which means that this deduction could be fairly large depending how the trust was funded.

Capital gains tax has the most obvious impact on the decision of whether to create a CRT. When properly implemented, a CRT can allow a grantor (or his/her family) to use a highly appreciated asset as an income stream for a very long period of time without having to suffer through the capital gains implications. This is because a CRT is tax-exempt pursuant to the tax code, and the assets used to fund the trust can be sold immediately and diversified with no taxable capital gains implications. CRTs also do not place limitations or prohibitions on funding with any particular asset type, and therefore highly appreciated concentrations of stocks, real estate, artwork, or other unique or hard-to-manage assets all make great candidates.

Whatever the estate plan or investment portfolio challenges may be, a CRT is a potential solution that can fulfill a grantor's philanthropic inclinations, provide income for beneficiaries for an extended duration, and capitalize on immediate tax incentives in a truly customized manner. As such, a CRT is a tool that every grantor and their estate planning professionals should have in their back pockets.