NewEdge WEALTH

CRUTs & CLATs: What Charitable Trusts Are and Why They Help You *and* Your Donors

PRESENTED TO

National Capital Gift Planning Council - Planned Giving Day 2024

June 6, 2024

CONFIDENTIAL

Presenter

Anneke Niemira, JD, LLM

MANAGING DIRECTOR
SENIOR WEALTH STRATEGIST
NEWEDGE WEALTH

As a Wealth Strategist, Anneke helps clients design solutions and strategies, guiding families through the complexities of multi-generational wealth. This includes addressing all facets of multi-generational wealth, including estate planning, wealth transfer planning, financial planning, philanthropy, tax planning, risk management, and next-generation education, among other areas.

Before joining NewEdge, Anneke held pivotal roles as Director, Senior Wealth Planner at Chevy Chase Trust, Senior Wealth Strategist at Hawthorn at PNC Family Wealth, and Senior Vice President, Senior Trust Officer at U.S. Trust, Bank of America Private Bank—accumulating a wealth of experience spanning over 16 years.

Anneke earned a Bachelor of Arts in German from Bryn Mawr College, a Juris Doctor (JD) from Seton Hall University School of Law, and a Master of Law in Taxation (LLM) from Georgetown University Law Center. She is a member of the Maryland Bar and holds a Series 65 license. Anneke has been an active member of the Washington, D.C. Estate Planning Council since 2013.

Having lived in six states, as well as some of her formative years in Germany, Anneke now resides in northern Virginia, near D.C., with her husband and children. Beyond her professional pursuits, she is an avid reader, often reading more than 130 books a year. In her free time, Anneke enjoys spending quality time with her family.

NewEdge Capital Group

NewEdge Wealth is the Ultra High Net Worth and Family Office division of NewEdge Capital Group

$50+	40+	150+	#13	#14
BILLION	ADVISORS	EMPLOYEES	RANKED ON	RANKED ON
Client Assets Serviced	Ultra High Net Worth Focused	Supporting Our Clients	Barron's 2023 Top 100 RIA Firms	Forbes' 2023 America's Top RIA Firms

ATLANTA • BENTONVILLE • CORAL GABLES • DENVER • MANHATTAN BEACH • MEMPHIS • MIAMI
NASHVILLE • NEW ORLEANS • NEW YORK • PARK CITY • PITTSBURGH • SAN FRANCISCO • STAMFORD

**Assets as of March 31, 2024. Barron's rankings awarded in September 2023 based on prior 12-month data. Forbes/Shook rankings awarded in October 2023 based on data from 3/31/22-3/31/23.*

We help clients think strategically about their future to ensure their values, goals and wealth are preserved over multiple generations.

Presentation Agenda

01 SETTING THE STAGE

02 INCOME & TRANSFER TAX LANDSCAPE

03 CHARITABLE REMAINDER TRUSTS

04 CHARITABLE LEAD TRUSTS

05 COMPARE, CONTRAST & OTHER FACTORS

06 WHAT SHOULD YOU DO NOW?

Setting the Stage

Donor Motivations, Philanthropically or Otherwise

Charitable Trusts might help donors meet their non-philanthropic goals as well as their philanthropic objectives.

Charitable Trusts might be well-suited for particularly wealthy clients who may not have intend to give as generously, *or at all,* but for the opportunity to accomplish other objectives via such philanthropic vehicles.

Donor Philanthropic Motivations

Donors' philanthropic motivations often fall into one or more of three categories:

1. Charitable Intent – Desire to support particular causes or organizations
2. Tax reduction – Income and/or transfer tax benefits (i.e., estate/gift/GST tax avoidance)
3. Family values— Encouraging descendants to become more involved in charitable pursuits

Other Potential Donor Goals

1. Upfront Income Tax Deduction During Life (CRTs or grantor CLTs)
2. Income Tax Deferral During Life (CRTs)
3. Estate Tax Deduction at Death (CRTs for partial deduction or CLTs for full or partial deduction)
4. Wealth Transfer Down Generation(s) (CLTs)
5. Regaining "Stretch IRA" Treatment for Beneficiaries Post SECURE Act (CRTs)
6. Reducing Concentrations and/or Divesting Low-Basis Stock (CRTs or non-grantor CLTs)

Scope of Today's Discussion

To help understand how Charitable Trusts work and how they might interest donors, today's discussion will cover:

Charitable Remainder Trusts

- What they are and how they work
  - Rules and decision-points
- CRUT example
  - Explanation of CRUT subtypes
- CRAT example
- How they are taxed (4 tier taxation) and potential deductibility
- Potential Donor benefits
  - Income tax deferral
  - Reducing investment concentrations
  - Income stream/cash flow to grantors
  - Income tax deduction (partial, during life)
  - Estate tax deduction (partial, at death)
- Pairing CRTs with…
  - IRAs for Stretch IRA treatment
  - Funding from an IRA initially (50k)
  - Life Insurance Trusts (ILITs)
  - QSBS Planning with C Corporations

Charitable Remainder Trusts, cont.

- Potential Cautions
  - Business Ownership in CRTs (UBTI)
  - Early death of Beneficiary/ Beneficiaries

Charitable Lead Trusts

- What they are and how they work
- How they are taxed (grantor vs. non-grantor) and potential deductibility
- CLAT Example
- Shark-fin CLAT subtype
- Escalating CLAT payments
- Potential Donor Benefits
  - Intergenerational Wealth Transfer (potentially uses no exemption)
  - Income tax deduction (full, partial or none)
  - Estate tax deduction (full or partial)

Connected & Overlapping Topics

- Income tax landscape, generally
- Transfer tax landscape, generally
- Annuity vs. Unitrust types of Charitable Trusts
- Factors that could affect CRT/CLT effectiveness or appropriateness:
  - Interest rate environment
  - Market risk/volatility
- Considerations when Funding
  - Valuation of assets, asset selection, and trust size
- Control and/or Flexibility
- Trust Administration
  - Tax reporting
  - Accurate trust administration
- Comparison of CRTs and CLTs
  - Rules, restrictions, and by donor goal

Income & Transfer Tax Landscape

Why is the Income Tax and Estate Planning Landscape Relevant Here?

Getting an income tax deduction is the easy part.

People give to Do Good and to Feel Good. And sometimes also to reduce their taxes while doing so.

By understanding your Donor's goals and financial stressors,
you can bring them ideas in ways they may not previously have considered
which can help *them* while also helping your non-profit.

By understanding the income and transfer tax landscape, you have context as to why grantors might appreciate using Charitable Trust structures to alleviate these tax issues.

Top Federal income tax rate: 37%
Top Gift or Estate tax rate: 40%

Types of Income Taxes in the United States

Ordinary Income and Capital Gains

The United States primarily taxes income by classifying it as either ordinary income or capital gains, which each have their own progressive, multi-bracket rate schedule based on filing status.

- ***Ordinary Income.*** Ordinary income rates apply to wage income, non-qualified dividends, most interest income and short-term capital gains (sale of stock or businesses held less than a year).
  - The maximum federal rate is 37%.

- ***Long Term Capital Gains.*** These rates apply to qualified dividends, or the sale of capital assets such as stock or a business held more than one year.
  - The maximum federal rate is 20% (except for collectibles such as art or coins, taxed at 28%).

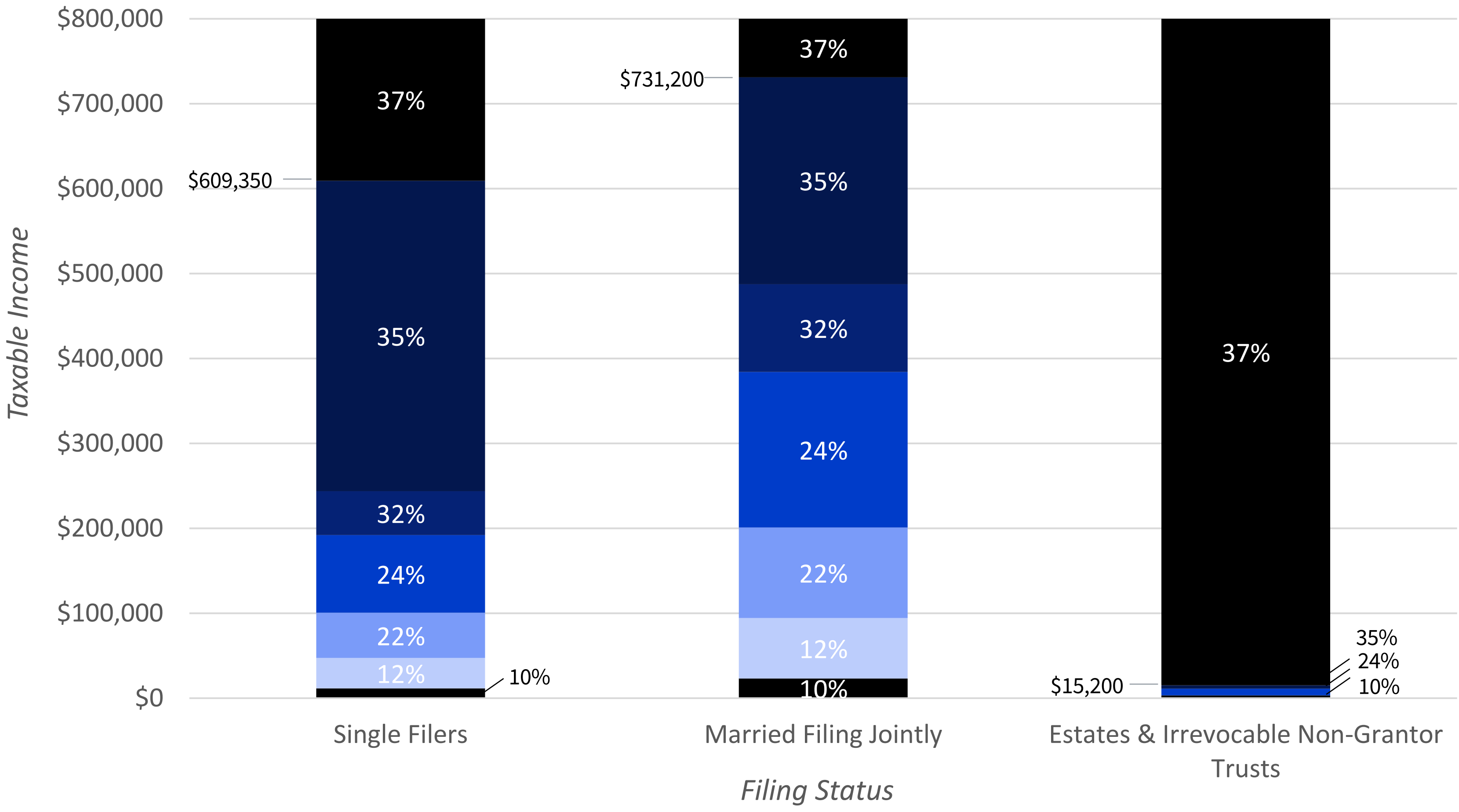
- ***Medicare Surtax*** – Additional 3.8% surtax on the lesser of net investment income or modified AGI over the threshold ($250,000 married filing jointly, $200,000 single or head of household).

Some irrevocable trusts are taxed somewhat differently– irrevocable "non-grantor" trusts reach the top brackets more quickly.

In addition, most U.S. states have state-level income taxes.

2024 Ordinary Income Rates

Ordinary income rates apply to income such as wage income, non-qualified dividends, most interest income, and short-term capital gains (assets such as stock or a business held for less than one year).



Estates and irrevocable non-grantor trusts reach the highest income tax brackets very quickly, as compared to individuals or grantor trusts, where the income is taxed to the grantor.

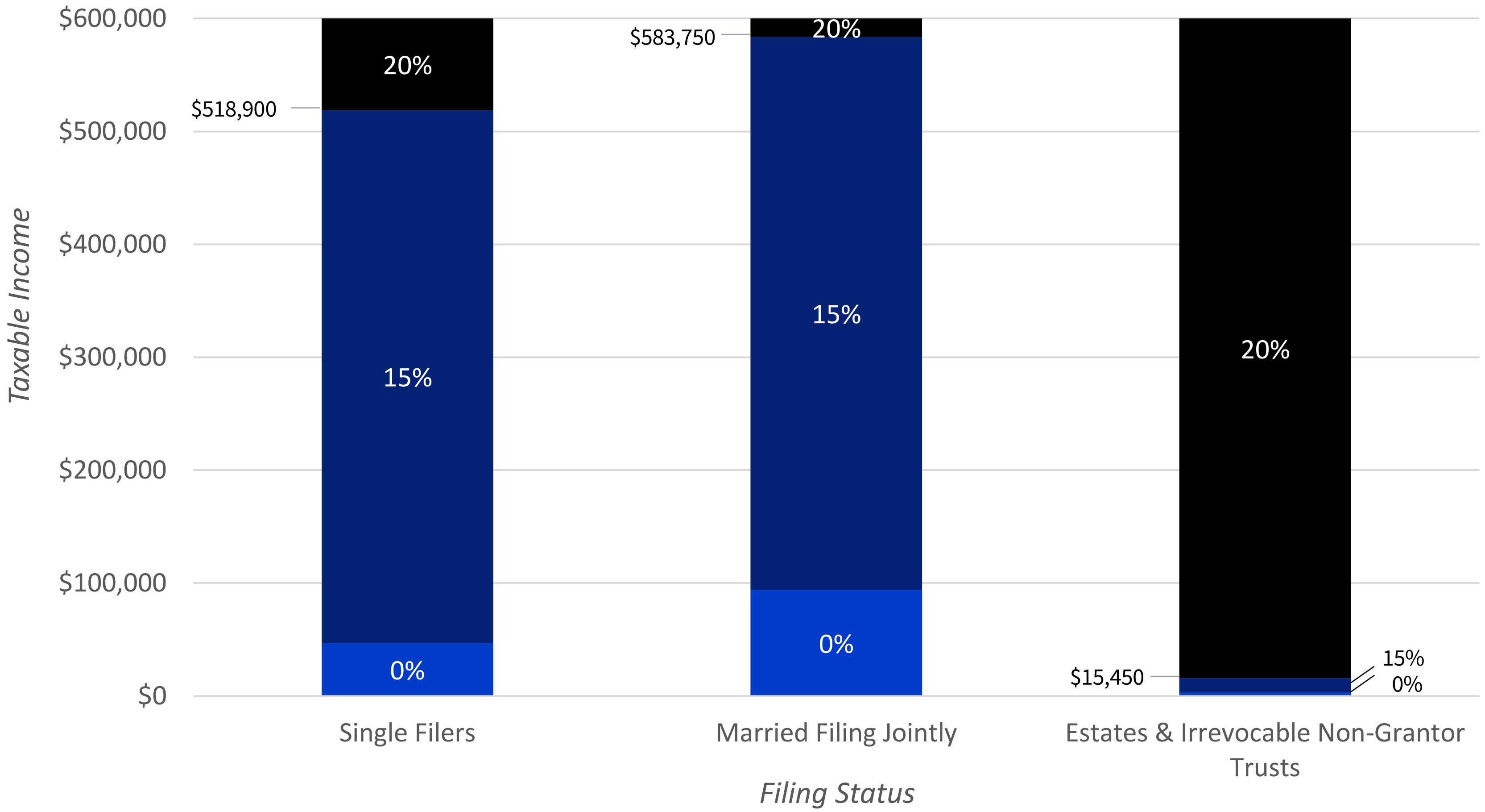
Irrevocable grantor trusts are taxed entirely to the grantor at the grantor's tax bracket(s), regardless of the recipient of trust distributions.

By contrast, income distributed to trust beneficiaries from non-grantor irrevocable trusts is taxed to the recipient at that individual beneficiary's own tax rate, while undistributed income and (generally) all capital gains are taxed at the trust level at those higher trust tax rates.

*Individual and Trust Tax Tables: Rev. Proc. 2023-34, §1(j)(2)(A)-(E), https://www.irs.gov/pub/irs-drop/rp-23-34.pdf

2024 Long Term Capital Gains Rates

Long term capital gains tax rates apply to income such as qualified dividends and long-term capital gains,* such as on the sale of stock or a business held more than one year.



Estates and irrevocable non-grantor trusts reach the highest income tax brackets very quickly, as compared to individuals or grantor trusts, where the income is taxed to the grantor.

Irrevocable grantor trusts are taxed entirely to the grantor at the grantor's tax bracket(s), regardless of the recipient of trust distributions.

By contrast, income distributed to trust beneficiaries from non-grantor irrevocable trusts is taxed to the recipient at that individual beneficiary's own tax rate, while undistributed income and (generally) all capital gains are taxed at the trust level at those higher trust tax rates.

*The tax rate on long-term gain on collectibles (coins, art, etc) is 28%.

*Individual and Trust Tax Tables: Rev. Proc. 2023-34, §1(h), §1(j)(5), https://www.irs.gov/pub/irs-drop/rp-23-34.pdf

Transfer Taxes System Overview

The Estate Tax, Gift Tax, and Generation-Skipping Transfer (GST) Tax

- As of 2024, individuals can transfer to $13.61 million (adjusting annually) federally tax-free to others over their lifetime or at death without paying estate, gift or GST tax; married couples can transfer up to $27.22 million.
- Exemption used during life leaves less exemption available at death.
- Gifts must be reported annually, with some exceptions.
- Once the lifetime exemption is exhausted, all future gifts or bequests have a 40% flat tax applied.
- In 2026 the exemption will be cut in half ("sunsetting") unless the law changes. Therefore, many individuals with "taxable estates"(assets over the lifetime exemption) are doing a lot of planning in anticipation of this change.

Transfer Taxes in the United States

The United States places limits on how much wealth can be transferred by individuals to others tax-free during life or at death.

In general, gifts to others (outright or in trust) count as reportable "**taxable gifts**," which use up one's lifetime gift, estate, and/or Generation Skipping Transfer (GST) tax exemptions. "Taxable" gifts, if made, must be reported annually on a gift tax return. No tax is due until one's entire exemption is exhausted. Lifetime gift (or GST) exemption used up during life reduces the remaining estate (or GST) exemption available at death. Gifts made down two or more generations use both gift exemption and GST exemption.

Gift Tax	Estate Tax	Generation-Skipping Transfer Tax (GST)	State-Level Estate Tax (Some States Only)
$13.61 Million* Exemption	$13.61 Million* Exemption	$13.61 Million* Exemption	Varies
40% Tax Rate	40% Tax Rate	40% Tax Rate	Varies
"Taxable" gifts during life reduce your estate tax exemption available at death			N/A or Varies
	GST "taxable" gifts during life reduce your GST exemption available at death		

Sunsetting Exemption after 2025

The estate, gift, and GST exemption amounts will sunset on December 31, 2025, and revert back to their 2017 levels of $5 million indexed for inflation, which is likely to be over $7 million.

Non-Taxable Gifts

There are **three types of gifts which do not count as taxable gifts**, and do not use up lifetime exemptions:

1. **Annual exclusion gifts.** For 2024, the annual exclusion amount is $18,000. Any excess over the annual exclusion amount per recipient is a reportable taxable gift.
2. **Gifts made directly to educational providers** (such as private schools or college) **or health care providers** (such as for medical bills) are not taxable gifts.
3. **Unlimited gifts can be made between U.S. citizen spouses**; $185,000/year may be gifted to non-citizen spouses.

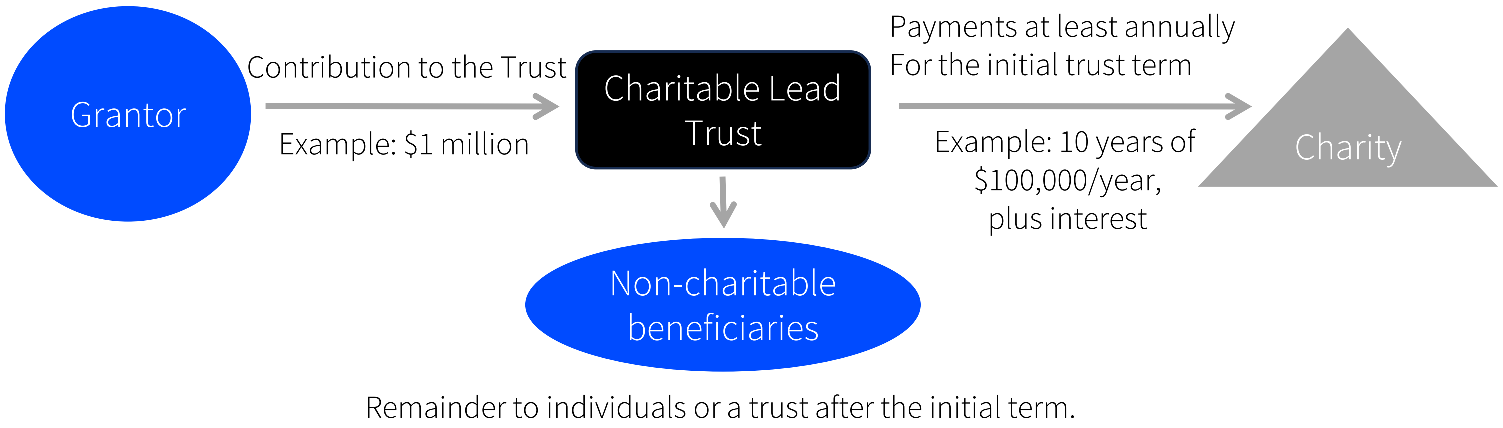
Note: Some states also have state-level inheritance taxes, based on the recipient of funds.

Charitable Lead Trusts (CLTs)

NewEdge WEALTH

Charitable Lead Trusts

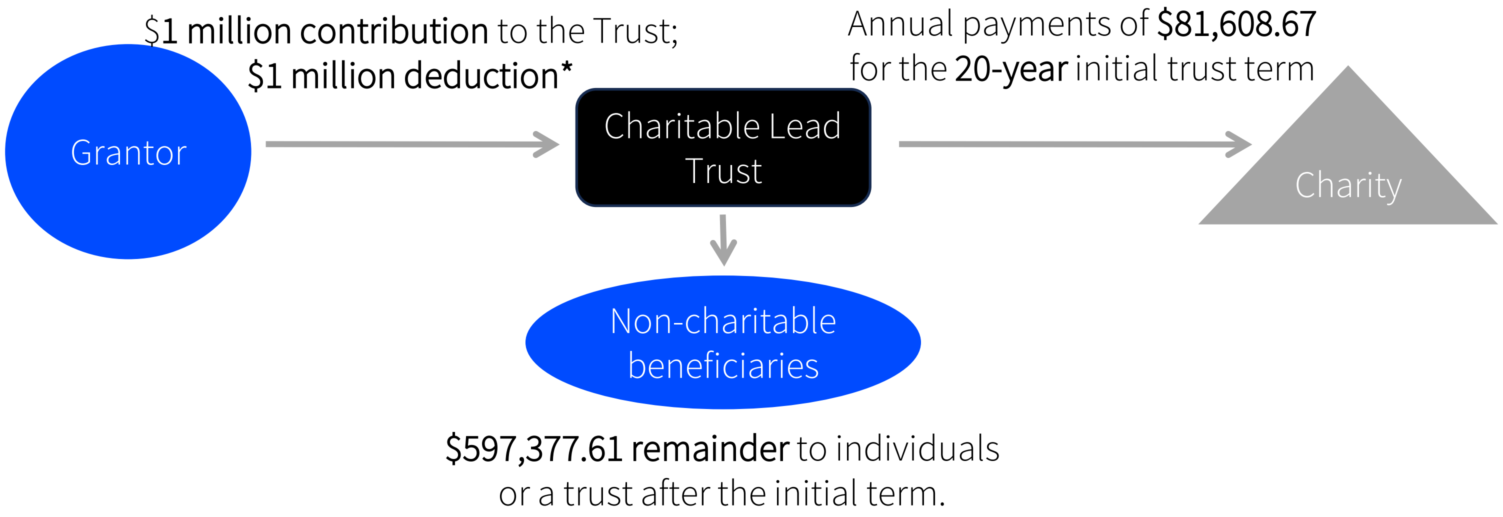
Charitable Lead Trusts (CLTs) are irrevocable trusts that "lead" with payments at least annually to one or more charities for a set period of time, and then the remaining assets go to non-charitable beneficiaries, either outright or in trust. If successful, a CLT is both a philanthropic giving vehicle and a wealth transfer vehicle.



The remainder going to individuals consists of any trust appreciation which exceeds the required Section 7520 interest rate, and this excess appreciation, regardless of size, does not change the amount of gift/GST exemption used. Therefore, CLTs work particularly well as wealth transfer vehicles in low interest rate environments, as it is easier to exceed the interest rate threshold (the "hurdle rate").

CLAT Example (Charitable Lead Annuity Trust) – $1 Million Example

CLATs are more popular than CLUTs because they can be “zeroed out” for no taxable gift at all. In this example, a grantor trust CLAT begins with $1 million, benefiting charities up front. Any funds left at the end of the term go to family, even if it exceeds the originally expected remainder. Deductibility depends on grantor vs. non-grantor trust status.



Example Assumptions

• *Starting Trust Value*	$1 million
• *Required Interest Rate (Lowest of 3 months is best)*	5.20% interest rate (April 2024 § 7520 Rate)
• *Estimated Return for Discussion Purposes*	7.20% annualized hypothetical return
• *Duration of CRT*	20-year initial term, with **equal** annual payments
• *Expected Remainder to Family per NumberCruncher*	0% (“zeroed out”); no taxable gift
• **Deductibility (varies)*	Depends on grantor vs non-grantor Trust status, CLAT vs CLUT, and calculated remainder interest; between 0% and 100% deductible

Consistent vs. Escalating CLAT Payments – The Benefits of Waiting

CLATs are permitted to increase the annual distribution percentage over time, although the maximum permitted increase has not yet been determined. By escalating payments, the assets can grow inside the CLAT for a longer period of time, potentially creating greater distributions to both charities and family in the long run.

Year	Beginning Principal	7.20% Growth	(Consistent) Payments	Remainder
1	$1,000,000.00	$72,000.00	$81,608.67	$990,391.33
2	$990,391.33	$71,308.18	$81,608.67	$980,090.84
3	$980,090.84	$70,566.54	$81,608.67	$969,048.71
4	$969,048.71	$69,771.51	$81,608.67	$957,211.55
5	$957,211.55	$68,919.23	$81,608.67	$944,522.11
6	$944,522.11	$68,005.59	$81,608.67	$930,919.03
7	$930,919.03	$67,026.17	$81,608.67	$916,336.53
8	$916,336.53	$65,976.23	$81,608.67	$900,704.09
9	$900,704.09	$64,850.69	$81,608.67	$883,946.11
10	$883,946.11	$63,644.12	$81,608.67	$865,981.56
11	$865,981.56	$62,350.67	$81,608.67	$846,723.56
12	$846,723.56	$60,964.10	$81,608.67	$826,078.99
13	$826,078.99	$59,477.69	$81,608.67	$803,948.01
14	$803,948.01	$57,884.26	$81,608.67	$780,223.60
15	$780,223.60	$56,176.10	$81,608.67	$754,791.03
16	$754,791.03	$54,344.95	$81,608.67	$727,527.31
17	$727,527.31	$52,381.97	$81,608.67	$698,300.61
18	$698,300.61	$50,277.64	$81,608.67	$666,969.58
19	$666,969.58	$48,021.81	$81,608.67	$633,382.72
20	$633,382.72	$45,603.56	$81,608.67	$597,377.61
Summary:	**$1,000,000.00**	**$1,229,551.01**	**$1,632,173.40**	**$597,377.61**

Year	Beginning Principal	7.20% Growth	(Escalating) Payments	Remainder	(Escalating) Rate
1	$1,000,000.00	$72,000.00	$11,464.48	$1,060,535.52	1.14645%
2	$1,060,535.52	$76,358.56	$13,757.40	$1,123,136.68	1.37574%
3	$1,123,136.68	$80,865.84	$16,508.90	$1,187,493.62	1.65089%
4	$1,187,493.62	$85,499.54	$19,810.70	$1,253,182.46	1.98107%
5	$1,253,182.46	$90,229.14	$23,772.80	$1,319,638.80	2.37728%
6	$1,319,638.80	$95,013.99	$28,527.40	$1,386,125.39	2.85274%
7	$1,386,125.39	$99,801.03	$34,232.90	$1,451,693.52	3.42329%
8	$1,451,693.52	$104,521.93	$41,079.50	$1,515,135.95	4.10795%
9	$1,515,135.95	$109,089.79	$49,295.40	$1,574,930.34	4.92954%
10	$1,574,930.34	$113,394.98	$59,154.50	$1,629,170.82	5.91545%
11	$1,629,170.82	$117,300.30	$70,985.40	$1,675,485.72	7.09854%
12	$1,675,485.72	$120,634.97	$85,182.50	$1,710,938.19	8.51825%
13	$1,710,938.19	$123,187.55	$102,219.00	$1,731,906.74	10.22190%
14	$1,731,906.74	$124,697.29	$122,662.80	$1,733,941.23	12.26628%
15	$1,733,941.23	$124,843.77	$147,195.40	$1,711,589.60	14.71954%
16	$1,711,589.60	$123,234.45	$176,634.50	$1,658,189.55	17.66345%
17	$1,658,189.55	$119,389.65	$211,961.40	$1,565,617.80	21.19614%
18	$1,565,617.80	$112,724.48	$254,353.70	$1,423,988.58	25.43537%
19	$1,423,988.58	$102,527.18	$305,224.40	$1,221,291.36	30.52244%
20	$1,221,291.36	$87,932.98	$366,269.30	$942,955.04	36.62693%
Summary:	**$1,000,000.00**	**$2,083,247.42**	**$2,140,292.38**	**$942,955.04**	

Charitable Lead Trust – Taxation

The income tax deductibility of CLTs depends on whether it is set up as a grantor trust (income taxed to the grantor) or not.

- **CLTs as "Grantor Trusts"** – If the Donor keeps the tax burden, they can get a (full or partial) income tax deduction, but the Donor pays the income taxes during at least the initial trust term.
- **CLTs as "Non-Grantor Trusts"** – If the Donor doesn't keep the tax burden, they do NOT get an income tax deduction, but they also don't have to pay the trust taxes. The CLT itself gets a deduction for distributions to charity.

Why would a Donor be willing to do a Charitable Lead Trust *without* getting the income tax deduction?

- The Donor is philanthropically inclined; the charity still gets the funds.
- The **primary benefit to a CLT** rather than an outright gift to charity is the ***intergenerational wealth transfer* of the remainder**, not the income tax deduction. In addition, if done as a CLAT, there might be little to no "taxable gift"* to family at all.
- The tax burden to the Donor over time could be quite significant, especially if the CLT assets appreciate significantly or have large unrealized gains from when the Donor owned the assets. By not keeping the tax impact, the Donor avoids paying tax on both the unrealized gains as well as future gains and income too.

*The amount of gift tax exemption, if any, which is used up in the creation of the CLT will depend on the type of CLT used (annuity trust vs. unitrust) and the ratio of the benefit going to the charities versus individuals. The greater the charitable benefit, the lower the gift tax exemption used. *The choice of whether to use a grantor or non-grantor CLT should be made in conjunction with legal and tax advisors.*

Summarizing CLTs – How CLTs can Help Your Donors with Their Goals

As discussed at the outset, if the perspective changes from how the clients can help charities, to how clients can use charitable trusts to help charities <u>and</u> themselves, they may be more likely to create them.

During Life

1. **Upfront Income Tax Deduction of up to 100%**– No deduction for contributions to "non-grantor" CLTs, where the trust pays its own taxes. However, contributions to "grantor" CLTs can receive deductions, and CLATs can be structured for a 100% deduction. (A CRT, by contrast, is never fully deductible.)

2. **Divesting Low-Basis Stock or a Concentrated Investment Position** – If the Donor is charitably inclined anyway, they can donate appreciated securities or concentrated positions to a "non-grantor" trust, and never have to pay capital gains tax on the contributed appreciated assets. This is similar to contributions to DAFs or foundations.

As Part of a Broader Estate Plan

1. **Intergenerational Wealth Transfer** – Whether the CLT is set up during life (inter vivos) or at death, the remainder interest goes to family members. A CLAT can be "zeroed out" so that there is no taxable gift at all for an remainder to family. The remainder consists of any excess funds over the "hurdle rate" at the end of the term.

2. **Estate Tax Deduction at Death of up to 100%** – A CLT funded at death can create an estate tax deduction, based on the value of the expected remainder interest. A CLAT in particular could be "zeroed out" to create a 100% deduction.

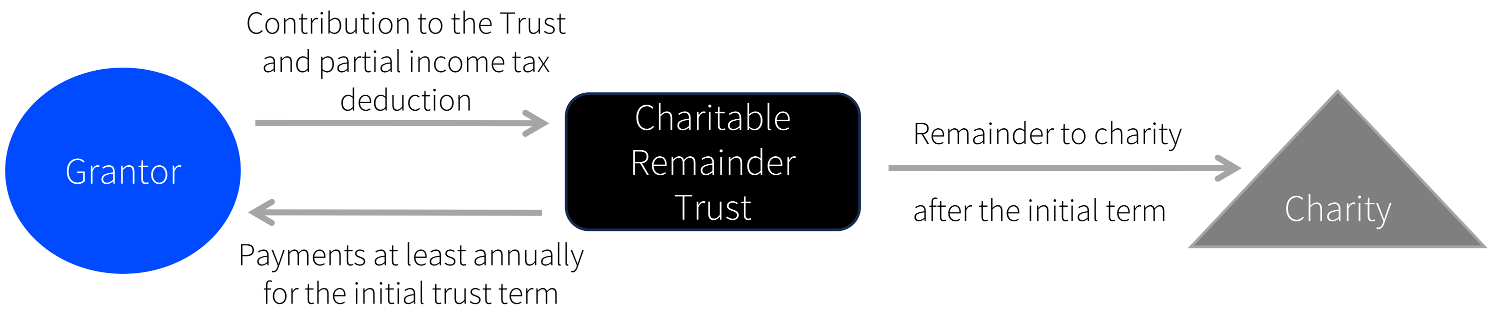
Example: Donor has a "taxable estate" which would cause a $2 million tax bill because of about $5 million in assets over the exemption amount. Donor's estate plan creates a 20-year zeroed out CLAT for the full amount of the excess funds over the exemption. The federal estate tax is entirely eliminated (or if not zeroed out, reduced), the money that otherwise would have gone to the IRS goes to a charity, and the remainder after the initial term goes to family.

This could work well where a Donor would prefer to support charities and family over paying taxes, and if they don't mind if the family has to wait for any remaining funds. However, note that the CLT overall is larger than the tax bill itself, so the Donor needs to carefully consider their priorities.

Charitable Remainder Trusts (CRTs)

Charitable Remainder Trust (CRT) – Structure and Concept

Charitable Remainder Trusts (CRTs) are irrevocable "split interest" trusts that have a combination of both individual and charitable beneficiaries. Distributions to individual beneficiaries (usually the grantor) are made at least annually for a defined number of years, and then after the initial period, any remaining assets are paid to charitable beneficiaries.



In addition to being a philanthropic giving vehicle, this type of trust provides an up-front partial income tax deduction in the year of funding (assuming no AGI limitations), an income stream back to the grantor, and also potential income tax deferral. The CRT calculation for the payments back to the grantor will include the Section 7520 Rate (5.6% as of June 2024) of interest.

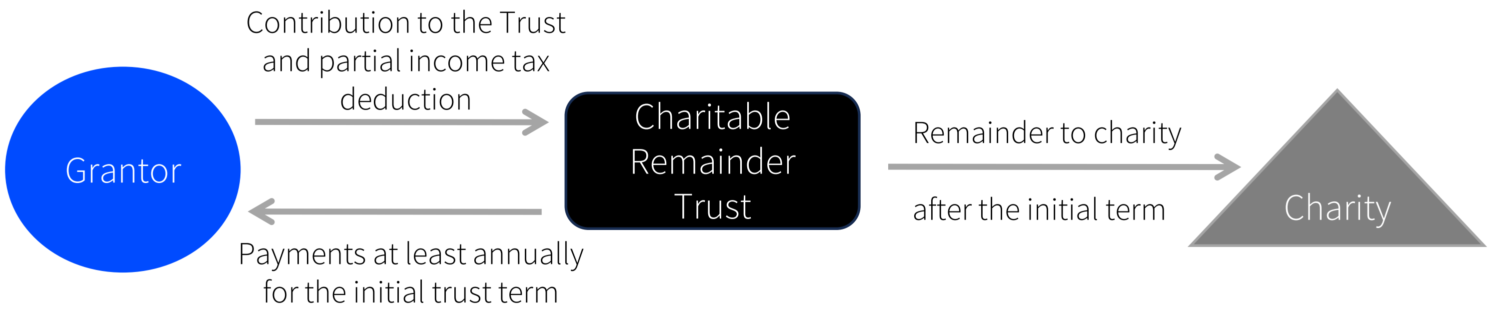
(This structure is the opposite of a Charitable Lead Trust, which gives to charities first and individuals later.)

Great For…

Diversifying concentrated investment positions immediately. Low-basis or concentrated assets can be liquidated right after Trust funding, with tax on the realized income potentially deferred and paid out (and taxed) over a period of years. IRAs can also be "inherited" by CRTs to regain the lifetime "stretch" IRA treatment lost by the SECURE Act's new 10-year distribution rules.

Charitable Remainder Trusts – Rules and Factors to Consider

CRTs still have restrictions on duration and payouts, and it has an unusual tax structure.



- **Minimum Remainder to Charity** – A CRT must be structured to leave **at least 10%** to charity at the end of the trust term, after factoring in the applicable §7520 rate and trust duration; the greater the remainder, the greater the deduction (the "**10% test**").
- **Minimum/Maximum Amount to Beneficiaries annually** – **Between 5% and 50%** of the Trust must be distributed to the income beneficiaries annually.
- **5% Probability Test** – There cannot be more than a 5% chance that the funds are exhausted before the charity receives the remainder. This rule only applies to CRATs (charitable remainder annuity trusts).
- **Maximum duration** – CRTs can last for **up to 20 years**, **or** for **one or more lifetimes**.
- **Required interest rate** – The annual payments must include a federally set interest rate called the §7520 rate, published monthly at https://www.irs.gov/applicable-federal-rates. The grantor may use the §7520 rate from either the current (funding) month or either of the prior 2 months. (In June 2024, the rate is 5.60%.) This rate is also referred to as the "hurdle rate." Highest rate is usually best for deductions.
- **Taxation** – Grantor is subject to taxation on trust income as trust distributions are made, based on a 4-tier system.

**IRC § 664 creates CRTs. The income tax requirements (the 5, 10, 50% tests, etc) are found in IRC 664(d)(1)-(2).*

Charitable Trust Sidebar – Annuity Trusts vs. Unitrusts – How do they Differ?

Regardless of whether you create a Charitable Lead Trust or a Charitable Remainder Trust, you must choose whether it will be an **Annuity Trust (CLAT or CRAT)** or a **Unitrust (CLUT or CRUT)**.

Annuity Trust

Annuity payments are *set at the funding* of the Trust and paid at least annually.

Although the payment amount is set up front, the amount does not have to be the same annually. It can be defined either as a percentage of the *initial* trust value, or as a dollar amount.

Example: $100,000 / year
or
5% of the **initial** trust value / year
(which works out to a dollar amount as well)

Unitrust

Unitrust payments *vary* based on the value of the Trust assets and are paid at least annually.

I.e., the percentage is defined, but the payment amount varies as a result of the changing trust value.

Example: 5% of the **then-current trust value** every year, meaning the CRUT payment will vary annually

CRUT Example (Charitable Remainder Unitrust) – $1 Million Example

A CRUT beginning with $1 million, benefiting the Grantor and their spouse. Any funds left at the end of the term go to charity, even if it exceeds the originally expected remainder.

$1 million contribution to the Trust;
$100,020 income tax **deduction**
(10.002% remainder)

$297,117 remainder to charity
after the initial **20 year** term

Unitrust payments of **11.02466%** **per year for 20 years** (cumulative amount: **$1.316 million**)

To the extent the CRUT investments **exceed** the 5.60% interest rate, those extra leftover funds go to charity.

Example Assumptions

• *Starting Trust Value*	$1 million
• *Required Interest Rate (Highest of 3 months is best)*	5.60% interest rate (June 2024 § 7520 Rate)
• *Estimated Return for Discussion Purposes*	5.60% annualized hypothetical return (break even)
• *Duration of CRT*	20-year initial term, with annual payments
• *Expected Remainder to Charity per NumberCruncher*	10.002%

Charitable Remainder Trusts – Decisions to Make When Setting up a CRT

Additional Factors to Consider

- **Which Individual Beneficiaries?** – Although any individual(s) may be chosen, there would be a "taxable gift" to beneficiaries other than the grantor and their spouse, so it is rare to see individuals other than the grantor and/or spouse.
- **Which Charitable Beneficiaries?**
    - This can be individual charities in various amounts or percentages; can use Donor Advised Funds (DAFs) and in some circumstances, Private Foundations. The family DAF can be a remainder beneficiary, but one needs to be more cautious if using a family's private foundation as a remainderman
    - The client can select the remainder charity up front or allow others (such as the Trustee or a Committee) to make that decision. Caution should be taken if the grantor retains the right to change the charitable beneficiary due to potential estate inclusion. The family DAF can be a remainder beneficiary, but one needs to be more cautious if using a family's private foundation as a remainderman.
- **Balance between Charitable and Individual Components** – The up-front income tax deduction will be determined by the remainder amount expected to go to charity. As noted before, the portion to charity can be as low as 10%. It is not possible to structure a CRT for a 100% deduction.
- **Type** –Annuity (CRAT) or Unitrust (CRUT)? This choice might be affected by the donor's desire to potentially make future trust additions, or concerns around trust sustainability or depletion. CRUTs are far more common than CRATs; they are less sensitive to market volatility and permit additions. Annuity trusts also fail at the outset if they have more than a 5% probability of exhausting the assets.
- **Additional trust contributions** – Additions are permitted to unitrusts (CRUTs) but forbidden for annuity trusts (CRATs).

Charitable Remainder Trust (CRT) Taxation

Assets contributed to a CRT retain the grantor's basis until sale. The taxation of CRT income works in a **4-Tier Tax System** based on both the **type** and **timing** of the income. A key benefit of a CRT is income tax deferral: income within the CRT is **not taxed until it is distributed out to the trust beneficiary; usually the grantor**. *A*ny realized gains and other trust income accumulates within the trust, remaining untaxed until distribution.

Distributions from the Trust to the Grantor are taxed in the following order:

Tier 1	Ordinary income & qualified dividends	Taxed as ordinary income or capital gains
Tier 2	Capital gains (all types)	Higher-rate capital gains distributed and taxed first. Examples: collectibles, short-term gains, business sales, long-term gains, etc.
Tier 3	Other income	Example: municipal bond income
Tier 4	Return of principal	Neither taxable nor income. Only distributed if all other Trust income has been disbursed.

Income Timing Order: Current year income is distributed first, then accumulated income from prior years is distributed (and taxed) next. Any undistributed income is not taxed at the trust level or grantor level until it is distributed, year-by-year, to the grantor in subsequent years.

Example: Grantor funds a CRT with $2 million of Stock Z, with a basis of $500,000, and the CRT sells all of Stock Z two days later, incurring $1.5 million in long-term gains, and reinvests in a diversified portfolio. Grantor receives his first $100,000 annual payment a year later. Assuming no other income was generated, grantor would pay tax on the $100,000 of capital gains distributed, and the other $1.4 million in accumulated gains would continue benefiting from tax deferral.

Charitable Remainder Trust Income Tax Deferral

The accumulation of undistributed income creates the primary benefit of CRTs.

Precisely because of how CRTs are taxed, the 4-tier structure creates income tax deferral. Because of this, CRTs are excellent vehicles for:

- Income tax deferral during life *and*
- Reducing investment concentrations *and*
- Divesting low-basis stock *and*
- Some amount of up-front income tax deduction.

All of these objectives can be accomplished as long as the grantor is comfortable paying tax on the CRT distribution amount as it is distributed annually. In addition, after the initial term, any remainder goes to charity, so any as-yet-untaxed income never gets taxed at all.

Example:

$2,000,000 of long-term capital gains (LTCG) taken immediately after trust funding, to reduce a concentration of low-basis stock. Payments are $100,000/year (x 20 years) plus interest.

The tax impact is *deferred* except to the extent of annual payments. Accordingly, tax impact only comes out at $100,000 (plus interest) per year. After distributing current-year income, the rest of the annual payment is (in this scenario) all LTCG. The remaining realized income remains tax deferred.

If Grantor dies with $500,000 of accrued LTCG, that $500,000 of capital gain income avoids tax.

Charitable Remainder Trusts –Other Factors to Consider

- **What if the Money Runs out?** – A failed CRT is a trust that is exhausted before the end of the initial term, so the charity does not receive anything. There is no penalty for a failed CRT, as at creation, it was expected that at least 10% of the value would be distributed to charity at termination.

- **Who are the Individual Beneficiaries? Taxable gift issues** – If a lifetime CRT, initial term payments usually go to the client or their spouse. If the gift is to others, it is a "taxable gift," (using a gift exception or requiring gift tax be paid), and if it is gifted down two or more generations, GST exemption must be allocated, or GST tax paid. Most lifetime CRTs have fewer transfer tax issues than CLTs, because the annuitant is usually the client or the client's spouse.

- **Future Additions to the CRT** – Future additions can be made to a CRUT, as the distributions are re-calculated annually based on a percentage of the trust; additions are not permitted to CRATs.

- **Can a CRT be ended early?** – A donor could potentially gift the income interest to charity early if they don't need the funds, or could ask the courts to terminate the trust early and pay out the current and remainder interests at that time based on their respective shares.

- **Early Death within the Initial Term** – Consider naming a successor initial beneficiary (spouse or other individual) to benefit from the CRT in case the grantor dies early. However, if a non-spouse receives the remaining initial CRT distributions, be aware of potential transfer tax implications for the remaining non-charitable interest to that non-spouse beneficiary.

- **Cautionary Tales – Be Wary of Debt or Businesses in CRTs** – Watch out for unrelated business taxable income (UBTI); if a business in a CRT is not "substantially related to the organization's exempt purpose," an excise tax may apply.[1] Avoid borrowing in CRTs, debt-financed property, and be careful of pass-through entities that might create UBTI, like S-corps or partnership interests.

1. 100% excise tax imposed on UBTI; 26 CFR Sec. 1.664-1(a)(1)(i), -1(c); IRS Publication 598, page 2. Debt-financed real estate is also UBTI.

Charitable Remainder Trusts –Be Wary of Unrelated Business Taxable Income (UBTI)

Proceed with caution with businesses in CRTs; not all entities receive equal treatment.

Watch out for **unrelated business taxable income (UBTI), which can create a 100% excise tax on the UBTI.** If a business in a CRT is not "substantially related to the organization's exempt purpose," an excise tax may apply.[1] In addition, debt-financed real estate, such as mortgaged properties, also counts as UBTI. Be careful of entities that might create UBTI, like S-corps or partnership interests.

- UBTI can be caused by having the wrong type of businesses in trusts. Entities that can cause UBTI include LLCs (taxed as S-corps or partnerships), partnerships, and/or S-corporations, although the latter would terminate the S election.
- **CRTs are not eligible S-corp shareholders.**
  - If you contribute S-corporation stock to a Charitable Remainder Trust, the entity's S-corporation status will be terminated, and it will be treated as a C corporation instead.
  - This is different treatment than S-corp interests owned by private foundations or other 501(c)(3) organizations, where owning S-corp shares are permitted. CRTs are governed by Section 664, not Section 501(c)(3), and are ineligible.
- **C-corporation stock *may* be owned in a CRT**. (It also works with LLCs taxed as C corps instead of S-corps or partnerships.)
  - Selling a C-corp business in a CRT could allow the transaction to benefit from the income tax deferral of CRTs.
  - In addition, any Qualified Small Business Stock (QSBS) eligibility, if the C corporation qualifies, would still be honored in the CRT upon a sale of the C-corp while owned by the CRT.
- **Keep any debt or encumbrances away from your CRT** to avoid UBTI. No mortgages or other debt financing issues.

1. 100% excise tax imposed on UBTI; 26 CFR Sec. 1.664-1(a)(1)(i), -1(c); IRS Publication 598, page 2. Debt-financed real estate and other debt may also cause UBTI issues.

Charitable Trust Sidebar – "Family Tree" of Charitable Trust Types

Regardless of whether you create a Charitable Lead Trust or a Charitable Remainder Trust, you must choose whether it will be an Annuity Trust (CLAT or CRAT) or a Unitrust (CLUT or CRUT).

- Charitable Remainder Trusts
  - Charitable Remainder Annuity Trust (CRAT)
  - Charitable Remainder Unitrust (CRUT)
    - (Regular or "Stan") CRUT
    - NICRUT
    - NIMCRUT
    - FlipCRUT
- Charitable Lead Trusts
  - Charitable Lead Unitrust (CLUT)
  - Charitable Lead Annuity Trust (CLAT)
    - (Regular) CLAT
    - Sharkfin CLAT

NICRUT

Net Income CRUT pays all net income, with an annual cap on percentage (lesser of net income or cap). (IRC § 664(d)(3)(A))

Example: Year 1, income of 2.4% all paid out. Year 2, income is 6% but cap is 5% so only 5% is distributed.

NIMCRUT

Net Income with Makeup CRUT acts like a NICRUT, except prior year under-payments are "made up" in future years if extra income exists.
(IRC § 664(d)(3)(B))

Example: Same as the NICRUT, except the full 6% is distributed in Year 2 as a make-up for the under-5% sent Year 1.

FlipCRUT

Changes from one type to another, either on a particular **date or** upon a pre-defined **triggering event** (such as a business sale)
(Tres. Reg.1.664-3(a)(1)(i)(d))

Example: Same as the NICRUT, but the triggering event (C-corp business sale) causes it to change to a traditional CRUT, with a fixed percentage payout.

(Regular) CLAT

CLATs can have consistent or escalating payments.

Sharkfin CLAT

Sharkfin CLATs send out small payments most years and then one large ballon payment at the end. Good for illiquid assets but very aggressive.

New SECURE Act 2.0 Benefit - $50,000 CRT or CGA from IRA QCDs

SECURE Act 2.0* now permits CRTs or Charitable Gift Annuities from IRAs; the juice may not be worth the squeeze.

General Qualified Charitable Distribution (QCD) Rule

IRA owners who are at least 70 ½ (despite RMD age now being 73) can make **Qualified Charitable Distributions (QCDs)** of up to $105,000 per year (as of 2024, indexed upward from $100,000 in 2023) from their IRAs directly to charities. To the extend they do so, those QCD funds are excluded from the taxpayer's taxable income altogether (which is potentially more favorable that merely a deduction). (The Donor should inform their tax preparer that such distributions were made directly to charity for proper tax treatment.)

New Permitted Use of QCDs as of 2023, per the SECURE Act 2.0

As of 2023, QCDs can now be used to create a Charitable Remainder Trust (CRUTs or CRATs) *or* a Charitable Gift Annuity.

However, the **maximum contribution is $50,000**, indexed for inflation ($53,000 in 2024). In addition, the CRT cannot be intermingled with other assets, and it can only be done once **per lifetime**.[1]

As to its taxation, the amount contributed via a QCD will be excluded from taxable income at the time of the contribution, and then taxed as ordinary income as payments are received by the donor. (One must also ensure that the QCDs would otherwise be taxable.)

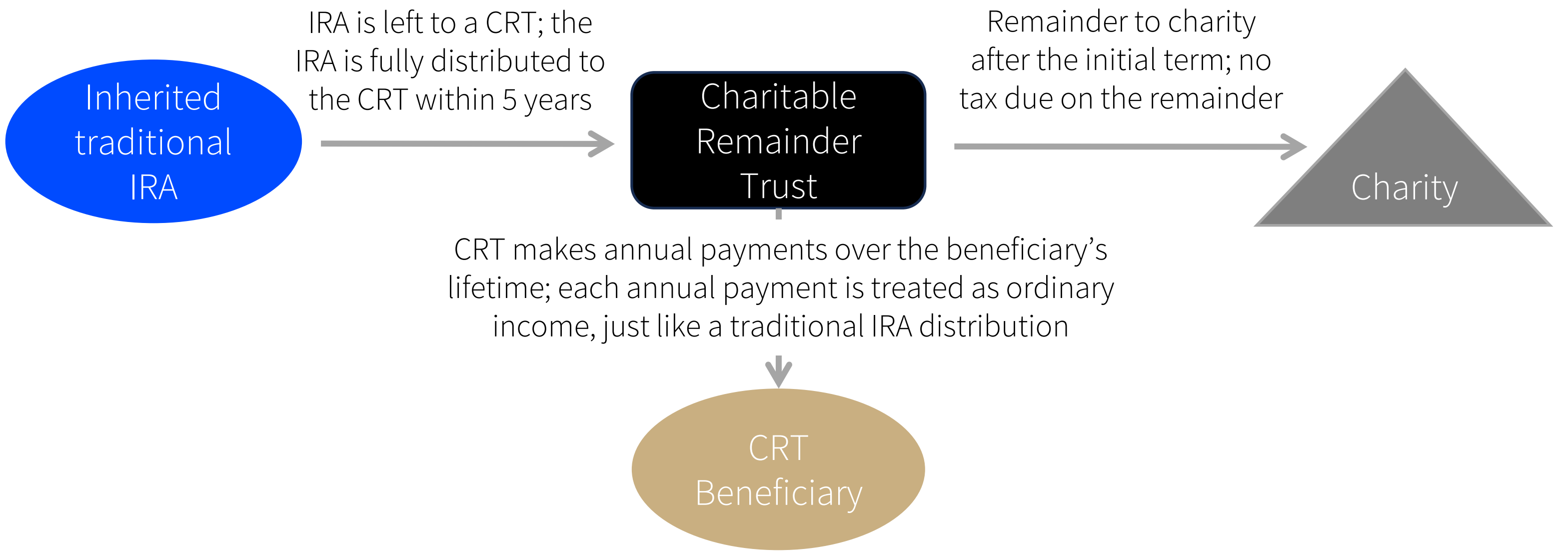
Due to the administrative burden (tax filings, payment oversight) and drafting costs, it is probably inefficient to create a CRT with IRA QCD funds. However, this might be worthwhile for Charitable Gift Annuities (CGAs) instead. If one creates aCGA, make sure the form does not allow an assignment; **assignments are not permitted**[2] in IRA QCD-funded Charitable Gift Annuities.

1. *IRC Section 408(d)(8)(F) is the new code section permitting one-time creation of split interest CRTs or CGAs from QCDs, to a max of $50,000/lifetime, indexed for inflation.*
2. *IRC Section 408(d)(8)(F)(iv)(II) notes that the income interest cannot be assignable.*

Charitable Remainder Trusts – Using CRTs to Regain "Stretch IRA" Treatment

Per the SECURE Act, IRAs inherited by non-spouses since 2020 usually pay out after about 10 years, instead of over a lifetime.

Per the first SECURE Act, unless the beneficiary is a spouse or an "eligible designated beneficiary" (EDB), the maximum distribution term[1] for an IRA is now the end of the 10th year after the year in which the account holder died. Before 2020, inherited IRAs usually paid out over the beneficiary's lifetime. This lifetime payout term was referred to as a "stretch IRA." CRTs as IRA beneficiaries could allow the beneficiary to buy back, in a manner of speaking, that stretch IRA treatment. The 'price' is the required 10% remainder to charity.

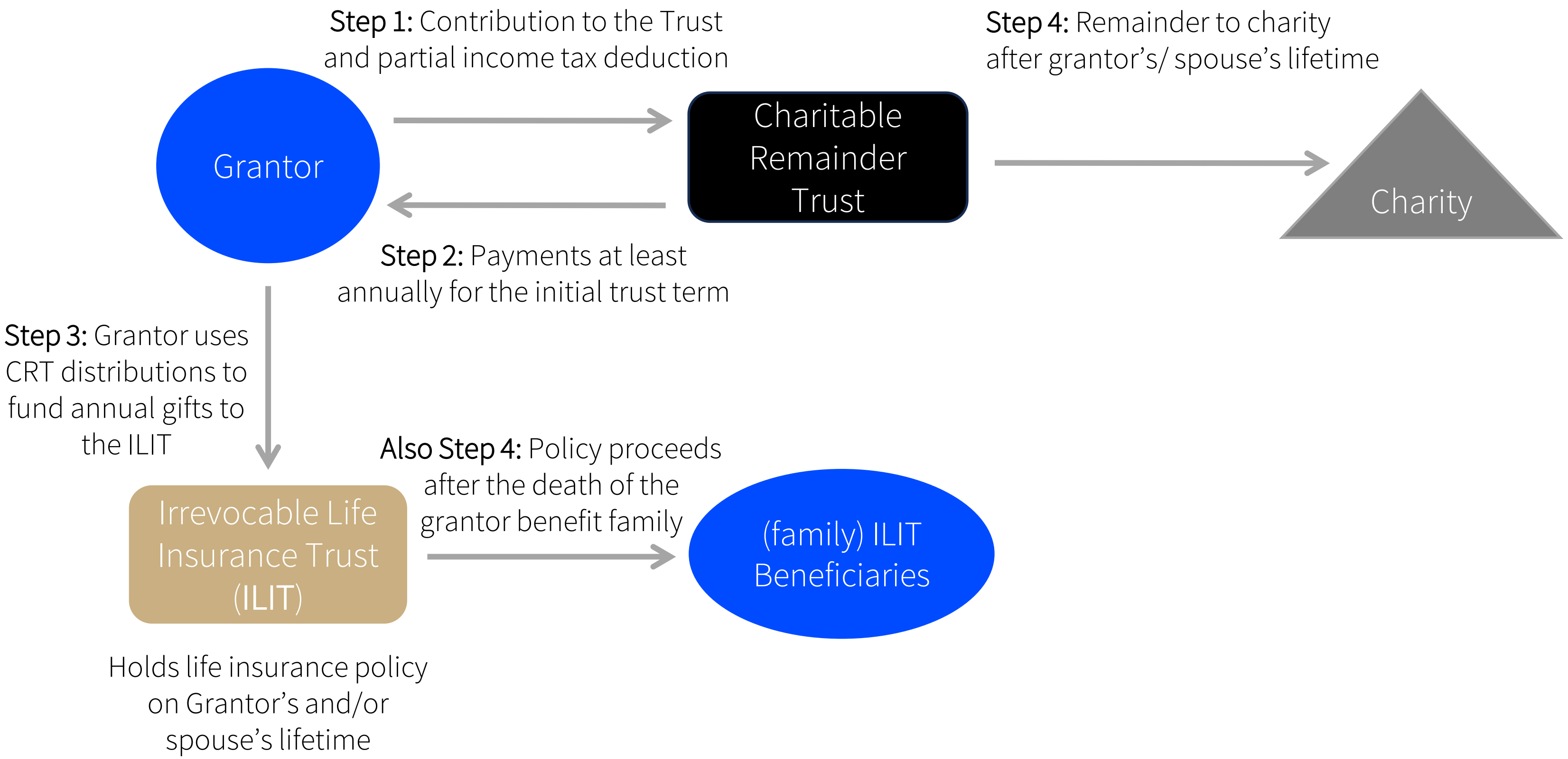


Donor leaves an IRA to a CRT with an individual's lifetime as the CRT duration. Although the IRA will likely fully distribute to the CRT within 5 years, the actual tax impact on the IRA's distributions of ordinary income is "caught" at the CRT level, and would be spread over the lifetime of the beneficiary in annual distributions. This potentially reduces the overall tax rate, and allows a longer period of tax-free growth. The CRT also provides a partial estate tax charitable deduction. The downside of this method is that the CRT beneficiary cannot take out more than the annual annuity amount, contrasting with unlimited withdrawals from an IRA.

1. An oversimplification of complex IRA rules, but for discussion purposes, we assume a remainderman who would otherwise have a 10-year payout term. IRC 401(a)(9)(E)(ii); includes surviving spouse, minor child of the owner, disabled or chronically ill individuals, or those not more than 10 years younger than the owner. IRC 401(a) (9)(H), 10-year rule.

Charitable Remainder Trusts – Using CRTs with ILITs

An Irrevocable Life Insurance Trust (ILIT) can be used, if desired, to replace some of the wealth left to the Charitable Remainder Trust remainder beneficiaries. Alternatively, if there are no taxable estate concerns, a life insurance policy could be owned directly, outside of an ILIT. The stream of income provided by the CRT distributions can assist in funding annual gifts to the ILIT.



Summarizing CRTs – How CRTs can Help Your Donors with Their Goals

As discussed at the outset, if the perspective changes from how the clients can help charities, to how clients can use charitable trusts to help charities and themselves, they may be more likely to create them.

During Life

1. **Upfront Partial Income Tax *Deduction*** – For example, where the donor expects a large income event, such as a business sale, or deferred compensation payout.

2. **Income Tax *Deferral* During Life** – Most effective with highly appreciated (low basis) stock **and** for **investment diversification** of concentrated (10%+ holding) stock positions. Assets can be sold immediately after CRT funding and reinvested into a diversified portfolio, with the realized capital gains tax paid gradually over time. Can also be used with a **C-corp** business (even with QSBS exclusions) which is contributed to a CRT and **sold inside the CRT**.

As Part of a Broader Estate Plan

1. **Estate Tax Deduction at Death** – A CRT funded at death will create a partial estate tax deduction, based on the value of the expected remainder interest.

2. **As an IRA Beneficiary to Regain "Stretch IRA" Treatment for Individual Beneficiaries (Post SECURE Act)** – Due to the SECURE Act, inherited IRAs going to most non-spouse beneficiaries[1] must now be distributed within 10 years of the owner's death. [2] Leaving a traditional IRA to a CRT set up for an individual's lifetime will allow the IRA taxable income to pay out over their lifetime rather than over only 10 years, similarly to historical IRA treatment.

3. **Paired with Life insurance Policies or Life Insurance Trusts for Wealth Replacement** – A life insurance policy, inside or outside an ILIT, both creates cash flow to the donor for premium payments or gifting, and could replace family wealth lost to the charitable remainder beneficiary.

1. IRC 401(a)(9)(E)(ii); includes surviving spouse, minor child of the owner, disabled or chronically ill individuals, or those not more than 10 years younger than the owner.
2. IRC 401(a) (9)(H), 10-year rule.

Compare, Contrast & Other Factors

Compare and Contrast – Remainder vs. Lead Trusts Terms, Tax & Structural Rules

Criteria	Charitable Remainder Trusts	Charitable Lead Trusts
Initial Term Beneficiary & Remainderman	Initial Term: Donor, and/or spouse (Usually) Remaindermen: Charities (1 or more)	Initial Term: Charities (1 or more) Remaindermen: Individuals (usually family)
Minimum or Maximum Payout Percentages	10% Test – At least 10% to charity. 5% Test(s) – At least 5% (and no more than 50%) must go to the income beneficiary annually,[1] and CRATs can't have more than a 5% probability of exhaustion.	No maximum or minimum payout. No minimum amount to remaindermen.[7]
Trust Term	A maximum term of 20 years, or for one or more lives.[2]	No maximum term of years; it can be any duration if a term of years.[7] Can also be based on one or more lives.[7]
100% Income or Estate Tax Deduction Possible?	No.[3]	Re: Income tax: Yes, for grantor trust CLATs only.[8,9] Re: Estate tax: Yes, for CLATs only.[9]
Can it be "zeroed out"? (Structured for no taxable gift)	Yes, if client and/or spouse are the only income beneficiaries.[4]	Yes for CLATs only; not CLUTs.[9]
Additions allowed?	Yes for unitrusts (CRUTs), no for annuity trusts (CRATs).	Guidance is unclear; additions to CLATs, even if possible, would not get income, gift, or estate tax deductions. CLUT additions likely permit deductions.
Taxation	Annual distributions to Grantor are taxed based on the 4-tier ordering rules.[5] The CRT itself is a tax-exempt entity, less any UBTI excise tax.[6]	Grantor Trust: Tax deductible up front, but fully taxable to the donor,[7] at least until the initial term ends. Non-Grantor Trust: No deduction, but not taxed to the grantor either.[7]

1. IRC §664 creates CRTs. The income tax requirements (the 5, 10, 50% tests, etc) are found in IRC § 664(d)(1)-(2).
2. IRC §664(d)(1)(A) and (d)(2)(A).
3. Logically, a CRT will not be 100% deductible because the present interest of the remainder interest to charity cannot be 100% of the original trust value, as it occurs after the non–deductible income interest to individuals.
4. IRC § 2523, gift of an interest to a spouse gets a full deduction for purposes of calculating taxable gifts.
5. 4-Tier system of taxation found in IRC § 664(b) and Treas. R. § 1.664-1(d)(1)(i).
6. IRC § 664(c), CRTs not subject to tax, except that per 664(c)(2)(A), UBTI subject to 100% excise tax.
7. "Audit Technique Guide for Charitable Trusts," https://www.irs.gov/pub/irs-tege/atg_chariaible_trusts.pdf, pg. 10-11, Charitable Lead Trusts. Also, IRC § 170(f)(2)(B) is silent on such restrictions, unlike § 664 on CRTs.
8. IRC § 170(f)(2)(B), only permitting a deduction on a CLT if the "grantor is treated as the owner of such interest… ."
9. The value of unitrust payments cannot be definitively determined at the outset of a Charitable Unitrust, because the unitrust payment is redetermined annually utilizing the trust value at the time. Because of this uncertainty, a CLUT cannot be zeroed out. By contrast, a CLAT's annuity payments are determined at the outset of the Trust, and the lead payments can be mathematically calculated to equal the initial trust value, adjusted for the §7520 rate.

Interest Rate Risk – When is Each Type of Trust Favored by Donors?

Donors tend to prefer Lead Trusts in lower interest rate environments, and Remainder Trusts if rates are higher.

More favorable for **Charitable Lead Trusts**	More favorable for **Charitable Remainder Trusts**
Lower Interest Rates	*Higher Interest Rates*

Why?
Because the lower the interest rate, the easier it is to exceed the "hurdle rate" (interest rate).

The greater the excess return, the more that goes to the next generation. Therefore, the wealth transfer aspect works better in lower rate environments.

Why?
Because the higher the interest rate, the higher the payments back to the donor (of original amount + interest).

The greater the interest, the more likely that the donor receives most of the market appreciation, and the less likely that the charity will receive excess return over the expected remainder amount.

Market Risk – Repercussions of Market Volatility on Charitable Trusts

Remaindermen on CRTs and CLTs generally bear greater market risk in down markets.

Why? Because the initial beneficiary gets *something*; the remainderman might end up with nothing or less than expected.

The initial beneficiary, generally:
- Charities in Lead Trusts
- Individuals in Remainder Trusts

The remainder beneficiary, generally:
- Individuals in Lead Trusts
- Charities in Remainder Trusts

Less Sensitive to Market Volatility ⟷ *More Sensitive to Market Volatility*

Are Annuity Trusts or Unitrusts More Sensitive to Market Volatility?

Unitrusts: CRUTs and CLUTs

Annuity Trusts: CRATs and CLATs

Less Sensitive to Market Volatility ⟷ *More Sensitive to Market Volatility*

Annuity Trusts are more sensitive, because they distribute a fixed amount every year based on the *initial* trust value, regardless of investment performance. Therefore, because annuity payments cannot vary (to prevent too much principal going out in a down market), annuity trusts are more likely to fail than unitrusts.

To **offset market volatility risk in a CLAT**, consider using escalating annuity payments. (Escalating payments are not permitted in CRATs.)

Funding Charitable Trusts – Does it Matter What Goes In It?

Beware of Illiquid Assets – both for valuation reasons and the dangers of UBTI in Charitable Remainder Trusts.

Potential Assets for Funding Charitable Trusts

- **Cash**
- **Appreciated Securities** – most convenient and tax-beneficial, if aiming for an income tax deduction or tax deferral.
- Illiquid assets that you **expect to liquidate** within the first year.

Why are Illiquid Assets Potentially Problematic?

- **In Charitable Remainder Trusts** – In Charitable Remainder Trusts, *unrelated business taxable income (UBTI) is subject to a 100% excise tax*,[1] and certain types of holdings (such as non-C corporation businesses or mortgaged real estate) can cause UBTI.
- **In Charitable Unitrusts** – because unitrusts are based on a percentage of (changing) trust value, year by year, the need to get an annual valuation or appraisal of unitrust assets could be cost prohibitive.
- **Shortfall of liquidity for annual payments** – Might cause difficulties in making annual payments during the initial term if insufficient liquidity exists, unless one grants fractional interests in illiquid assets.

….Unless You Consider Using a Shark-fin CLAT

Sharkfin CLATs make small payments for most years, with a balloon payment to charity in the last year of the trust term (sometimes funded by life insurance at the end). This means a valuation or appraisal is only needed twice: one at the initial trust funding, and one in the last year for the final (balloon) payment. This is still considered an aggressive charitable trust, as it might still be challenged by the IRS.

1. UBTI excise tax, IRC § 664(c)(2)(A).

Charitable Trusts – Proper Trust Administration and Tax Reporting

Tax Reporting

Both types (Lead and Remainder) Trusts have tax reporting requirements.

- **Form 5227, the Split-Interest Trust Information Return**, must be filed annually (on Tax Day, usually April 15th). This includes information about distributions to individuals as well as distributions to charities, and also tracks the accumulation of (i.e., income tax deferral of) realized income in Charitable Remainder Trusts. Some of the information on this return is public, and some is private.

Trust Administration

Improper administration of the trust could invalidate the trust, undoing any income, gift or estate tax benefits previously obtained. Things to watch out for:

- Make sure tax reporting is done and timely filed.
- Make the annual payments on time and according to the trust terms.
- Make sure there is **no "self-dealing"** between the Donor and the Charitable Trust. For example:
  - Avoid substituting assets between the Donor and the Trust, or selling or borrowing assets from/between them as well.
  - If a CRT owns a business, the Donor and their close family members should avoid leasing property to the company, or selling the company back to the Donor or their family, or incurring any loans between the Donor, their family, and the company.

Why Don't We See Charitable Trusts More Often?

The ones who know how Charitable Trusts work often don't know what the Donor is up to, and the Donor's advisors who know what is going on in the Donor's life often don't know about Charitable Trusts or their benefits.

- **"Must be Charitably Inclined" Fallacy** – Advisors often think "well, my client isn't philanthropically inclined, so this isn't a good fit." For CRTs in particular, this is largely missing the point. The philanthropic aspect for CRTs is often less relevant than the positive tax benefits.
- **Insufficient Conversations about Philanthropy with a Donor's Other Advisors** – Your donor's other advisors (such as CPAs, attorneys, or investment advisors) may not be bringing up philanthropy at all, and are even less likely to bring up Charitable Trusts-- people just don't know what they are and why they are beneficial. Alternatively, they may bring it up too late for the idea to be useful.
- **Complexity and Awareness** – Even if philanthropy is discussed, Charitable Trusts may not be mentioned due to perceived complexity or drafting costs.
- **Timing** – These conversations need to happen *before* the relevant tax event, especially clients with "taxable estates." Ask your donors if they have important income, financial or life events coming up, or concentrated investment positions; a charitable trust might help them.
- **Size – Works Best for Donors of Significant Wealth or Income due to Complexity** – Charitable Trusts make the most sense for someone willing to use significant assets, ideally $500,000+ to several million, to make the administrative burden and drafting costs worthwhile.
- **The Takeaway for Today – An Opportunity for you to Bring it up First** – Improve your own awareness of both how they work and how they might align with your clients' goals.

Best Charitable Trust to Use Based on Donor Goals

Client Goals	Charitable Remainder Trusts	Charitable Lead Trusts
1. Upfront Income Tax Deduction During Life	Partial deduction only, although it can still be high depending on structure; minimum 10%	Grantor Trusts: **Yes**, and up to a 100% deduction is possible with grantor CLATs. Non-Grantor Trusts: **No**.
2. Income Tax Deferral (during life)	**Yes**; tax impact is distributed gradually over time via the 4-tier tax system.	Grantor Trust: No. Non-Grantor Trust: N/A; Donor not taxed on trust income.
3. Income Tax Avoidance During Life	Not really. The grantor pays income tax gradually upon distributions. The remainder to charity avoids income tax.	Grantor Trust: **No**, because the donor pays the tax during at least the initial trust term. Non-Grantor Trust: **Yes**, because the grantor stops paying the taxes upon CLT funding.
4. Estate Tax Deduction at Death	Partial estate tax deduction possible; minimum 10%. CRTs usually have smaller deductions than CLTs.	Yes; up to 100% with CLATs. CLTs usually have much greater deductions than CRTs.
5. Wealth Transfer Down Generation(s)	**No**, unless descendants are the initial beneficiaries, which is rare (creates a taxable gift).	**Yes**, and with CLATs, could even be structured as not a taxable gift.
6. Divest Investment Concentrations or Low Basis Stock	**Yes**, due to tax deferral	Grantor Trust: **No**; all trust income taxed to Donor. Non-Grantor Trust: **Yes**, as income not taxed to Donor.
7. Regaining "Stretch IRA" Treatment	**Yes**; CRT can distribute (IRA ordinary income) over underlying beneficiary's lifetime instead of 5-10 years	No
8. Funding with Illiquid Assets	More difficult with CRUTs (annual valuation) than CRATs. Be cautious of UBTI (100% excise tax) caused by a non C-corp business or by debt (mortgaged real estate, etc).	More difficult with CLUTs (annual valuation needed) than CLATs. Best with Shark-fin CLAT or liquidating assets.

What Should You Do Now?

Leading Questions or Comments for Affluent Donors About Charitable Trusts

How do you guide donors into exploring these options? Look for conversational triggers, based on their articulated goals, to determine if these planning techniques are well-suited to their goals and circumstances.

If they mention a big tax bill coming, a business sale or other large income event which happened this tax year, or is coming soon, or they want to benefit charity but not at the expense of the next generation, any of these might open the door to a discussion around Charitable Trusts.

- Have you ever had a discussion with anyone about Charitable Trusts? May I tell you a bit about them?
- Have you thought about using a charitable vehicle to combine your philanthropy with wealth transfer for the next generation?
- Did you know there is a way to pair giving to charity and gifting to your children?
- [For donors with liquidity events coming up] There are interesting philanthropic trusts that can help provide an income tax deduction or could help you defer or eliminate some upcoming capital gains taxes.
- [For donors with concentrated stock positions] Contributing concentrated or low-basis stock to a Charitable Remainder Trust might allow you to defer or eliminate some of the capital gains upon sale of the stock.
- What if you could get a particular income tax deduction for giving yourself an income stream for life, and giving the rest to charity thereafter?
- If you were planning on giving to charity annually or at death anyway, there may be a way to pair that with an up-front income or estate tax deduction, or to pair it with a wealth transfer to benefit your family.
- What if you could pair your future giving with an up-front income tax deduction?
- [If the donor mentions upcoming retirement] Do you happen to have deferred compensation that will pay out at retirement? The reason I ask is because there are some philanthropic vehicles that might help you offset some of that income with an up-front income tax deduction.

What Should You Do Now?

Approaching complicated, nuanced tax strategies requires careful financial planning and collaboration with tax advisors, legal experts, and wealth management experts to ensure alignment with individual circumstances and objectives.

1) **Looks at your existing donor base and determine if any appear to be high- or ultra-high net worth donors.**

2) **Review the high points of CRT and CLT functions and which is best for which donor goal.**

   - Charitable Remainder Trust – Good for *income tax deferral, concentrated asset diversification* and small up front income tax deduction.
   - Charitable Lead Trust – Larger (and potentially full) charitable deduction *and intergenerational wealth transfer without using any estate exemption*.

2) **Consider asking Donors if they have either concentrated stock positions or intergenerational wealth, because they might be able to pair addressing those issues with a philanthropic (or tax savings!) objective via Charitable Trusts.**

   - Possible outreach via mailings or emails to donor base giving an overview of each type of trust and its potential (tax deferral or wealth transfer) benefits.
   - If they express interest, suggest they discuss it with their estate planning attorney.


Questions?
NewEdge
WEALTH

Any questions?

Anneke H. Niemira, JD, LLM

2200 Atlantic Street, Suite 200, Stamford, CT 06902 | Washington, DC metro area

203.391.2102

aniemira@newedgecg.com

Disclosures

This presentation has been prepared solely for your confidential use. These materials do not constitute an offer or solicitation in any jurisdiction to any person or entity. This communication is not intended to, and should not, form a primary basis for any investment decision.

Depending on the needs of our clients, we may assist with brokerage services, advisory services or both. There are important differences between brokerage and advisory accounts, including their costs and conflicts of interest, which you should carefully consider when deciding what types of services are right for you.

NewEdge and its affiliates do not render advice on legal, tax and/or tax accounting matters to clients. Any investment, tax, marketing, or legal information contained herein is general and educational in nature and should not be construed as advice. Please consult your tax advisor for matters involving taxation and tax planning and your attorney for matters involving trusts, estate planning, charitable giving, philanthropic planning, and other legal matters.

Investing involves risk, including possible loss of principal. Past performance is no guarantee of future results.

NewEdge Wealth is a division of NewEdge Capital Group, LLC. Investment advisory services offered through NewEdge Wealth, LLC, a registered investment adviser. Securities offered through NewEdge Securities, Inc., Member FINRA/SIPC.

Accolades

Barron's Top 100 RIA Firms

Barron's Top 100 RIA Firms is based on assets under management, revenue produced for the firm, regulatory record, quality of practice and philanthropic work. Portfolio performance is not a criterion because most advisors do not have audited track records. Neither NewEdge Wealth or its employees pay a fee in exchange for these rankings. Past performance is not a guarantee of future results. Barron's is a registered trademark of Dow Jones & Co.

Forbes America's Top RIA Firms

The Forbes ranking of America's Top RIA Firms, developed by SHOOK Research, is based on an algorithm of qualitative criteria, mostly gained through telephone, virtual and in-person due diligence interviews, and quantitative data. The algorithm weighs factors like revenue trends, assets under management, compliance records, industry experience and those that encompass best practices and approach to working with clients. Portfolio performance is not a criterion due to varying client objectives and lack of audited data. Neither NewEdge Wealth or its employees pay a fee in exchange for these rankings. 2023 ranking awarded in October 2023 based on data as of June 30, 2023.