

BRETHREN IN CHRIST FOUNDATION TRUST POLICY

CHARITABLE REMAINDER TRUSTS

A charitable remainder trust is an irrevocable agreement between an individual donor(s) and a charity. These trusts can be funded with stocks, bonds, real estate, personal property or cash. A trustee manages the trust, does the buying and selling, and issues the income payments. The trustee can be a bank or trust company, a charity or even the donor. Charitable remainder trusts are considered split-interest trusts since the donor receives income from the trust during his/her lifetime and the remainder goes to charity. There are two categories of charitable remainder trusts from which to choose: unitrusts and annuity trusts.

Charitable Remainder Unitrusts (CRUT)

The Donor places assets into this irrevocable trust. The Foundation, as trustee, sells the assets and reinvests the proceeds in a mix of stocks and bonds. The Foundation then pays from the CRUT a percentage of its value each year to the donor for the donor's lifetime. At the end of the donor's life, the value in the CRUT goes to charity.

A CRUT must be written to pay at least 5% per year. The length that the CRUT lasts may vary. It can be for one or two lives, or for one or two lives plus a term of up to 20 years or it can be specified for a number of years, up to 20. The IRS has guidelines that must be met when determining the maximum percent that can be paid as income to the donor and the maximum life of the trust. The present value of the charitable remainder must be 10% or more of the fair market value of the assets, as of the date the assets are contributed to the CRUT, in order to meet the IRS' standard of a charitable trust.

Advantages

The CRUT is a tax-exempt entity because of its charitable remainder. No capital gains are paid when the trust sells the assets. It is advantageous to fund a CRUT with appreciated assets such as securities or real estate and avoid paying tax on the capital gain.

The donor will receive a charitable income tax deduction in the year the trust is created, based on the present value of the trust remainder, since the charity will eventually receive a gift.

The CRUT is designed to provide income based on a percentage of the value of the trust. This rate is negotiated between the Foundation and the donor when the trust is

established. The CRUT usually earns more than it pays out, so the trust value should grow. Because the payment from the CRUT is based on fair market value of the assets in the trust, the payment increases if the trust value grows, acting as inflation protection for the donor. However, the assets are invested in stocks and bonds and the value of the trust can go up or down. If the value of the trust increases, payments will increase and if it decreases payments will decrease.

In summary, the benefits of a CRUT to the donor are (1) the bypass of capital gains tax on appreciated assets, (2) an income for life, (3) a charitable deduction for the donor and (4) inflation protection when the trust assets grow.

Unitrust Variations

The charitable remainder unitrust described above is a Standard CRUT, which annually pays a fixed percentage of the market value of the CRUT on January 1. The dollar amount or standard payment calculated is paid monthly or quarterly during the year.

Net Income Unitrust (NIMCRUT) with Make-up – This trust pays the net income earned. The Standard CRUT percentage is established and the trust pays the lesser of the net income earned or the standard payment. If the net income amount is less than the standard payment, the difference becomes a deficit or “make-up” and can be paid in future years when the net income is greater than the standard payment. This type of CRUT protects the principal. The tax benefits are the same as for a Standard CRUT.

Education Unitrust – A Standard CRUT that lasts for 5 or 6 years and can be used to provide income to a college student during college years. At the end the remainder goes to charity. The benefits are (1) income for the student, and (2) the bypass of capital gains tax and (3) a charitable deduction for the donor.

Retirement Unitrust – This CRUT is established as a net income with make-up or NIMCRUT, and is used to provide income after retirement to the donor. Rather than paying income after the trust is funded, the trust is invested in growth stocks, which pay little or no income, creating an income deficit, which can be made up during retirement. Once the donor reaches retirement age, the trust is reinvested in bonds to produce income, which is paid to the donor for life. The Retirement Unitrust could also be written to flip from a NIMCRUT to a Standard CRUT upon retirement age. The benefits are: income that is deferred until retirement, bypass of capital gain, and an immediate charitable deduction.

Charitable Remainder Unitrust and Insurance Trust – A Standard CRUT can be used in conjunction with an insurance trust to benefit heirs and avoid significant estate taxes. A donor may fund a Standard CRUT and then use the income to pay for a life insurance policy. When the donor passes away, the remainder goes to charity and the insurance is paid to the family without estate taxes being levied. The benefits are: income to buy insurance, bypass of capital gains tax and an immediate charitable deduction. The benefit from the insurance trust is the bypass of estate taxes.

Charitable Remainder Annuity Trust (CRAT)

The CRAT works just the same as a CRUT in funding the trust, term of years, etc. but instead of receiving a fixed percentage of the trust value, the donor receives a fixed dollar amount each year for the life of the trust.

This type of charitable remainder trust should be used for people in their late seventies or eighties since there is no inflation protection in a fixed payout.

By paying out a fixed amount, it is possible to exhaust the trust principal. Before the CRAT is established there is an IRS test that must be passed in order for the trust to be allowed. This test checks the age of the donor, the amount in the trust and the Federal Government's Rate of the Month and determines if statistically 95% of the time the trust principal will not be exhausted. Just as with a CRUT, the IRS is determining if there will be a remainder for charity before allowing the donor to receive the benefits of setting up a charitable trust.

The benefits of a CRAT are:

- Bypass of Capital Gains Taxes
- The CRAT pays fixed income for the life of the donor.
- The payments will never decrease.
- The donor receives an immediate charitable deduction for the future gift.

CHARITABLE REMAINDER TRUST POLICIES

Payment Percentage

The IRS has set the minimum payout percentage of 5%. The Foundation suggests a payout percentage of 6%, with a maximum of 7%. At the discretion of the Director of Planned Giving and the CEO of the Foundation, a payout percentage above 7% would be permitted if the age of the donor warranted a higher percentage.

Minimum Gift and Payment Frequency

The suggested minimum for establishing a charitable remainder trust is \$25,000. This is because of the expense of managing a charitable trust. Income payments to the donor are established on a monthly or quarterly basis.

Charitable Remainders

The Foundation will encourage donor(s) to remember Brethren in Christ ministries for a minimum of 50% of the charitable remainder. Exceptions can be made at the discretion of the Director of Planned Giving and the CEO of the Foundation.

Acceptable Assets

Cash, securities and appreciated real estate are the most common types of assets used to fund a charitable remainder trust. Any asset received into a charitable trust must be readily marketable. Intangible assets will not be accepted into a charitable remainder trust established with the Foundation nor any other appreciated asset not readily marketable.

Gifts of Real Estate

When the Foundation is in the process of establishing a charitable remainder trust to be funded with real estate, special attention must be given to the marketability of the property, environmental issues etc. The Foundation uses a Data Sheet and Environmental Checklist to help identify issues and complete the transaction. See Appendix A & B attached.

An on-site inspection is required for gifts of real estate. If the property is farmland or commercial property, a Phase I will be required. Residential property does not require a Phase I unless the Environmental Checklist would indicate the need for one.

An appraisal of the property within 60 days of the transfer is required. The appraisal must be paid for by the donor in order to avoid bargain sale rules. If the appraisal is done after the real estate transfer, the appraised value must be as of the date of transfer.

For donations of real estate in PA, an installment sales agreement may be used to fund the charitable trust giving the trust equity ownership with title passing to the trust at the final sale. This legally eliminates paying transfer tax twice (i.e. when it is donated and when it is sold by the trust). If an installment sales agreement is not used, then the Foundation asks the donor to sign over the deed and have it recorded in favor of the Brethren in Christ Foundation at the same time the trust agreement is signed. Transfer tax due at the time of the gift, must be paid by the donor.

The Foundation will only accept an undivided interest in the donated property.

The Foundation must obtain title insurance at standard rates on the property being gifted.

The Foundation will only accept real estate that is debt free.

The donor may use their own appraiser and attorney.

There must not be a sales agreement between the donor and the buyer before the transfer of the real estate gift or the donor loses the tax advantages of funding the charitable trust with appreciated assets.

The Foundation will always follow the guidelines established by the IRS in setting up a Charitable Remainder Trust.

During the period of time that the real estate is being marketed by the Foundation, all expenses of the trust (real estate taxes and insurance) will be paid using any rental income on the property received by the trust or, if not adequate, expenses must be funded by the donor. If rental income is determined to be inadequate to meet estimated expenses (see Appendix A Data Sheet), the donor(s) must give cash to pay for estimated expenses at the time the real estate is donated. It is against IRS regulations for the Foundation to pay the expenses of the trust.

Once a real estate donation has been accepted into a charitable remainder trust, the trust document will be written as a NIMCRUT with provisions to flip to a Standard CRUT when the trust is at least 90% funded with liquid assets. The flip to a Standard CRUT will occur on January 1 of the year following the year in which the funding was attained.

Generally, real estate will not be accepted into a CRAT since fixed payments are required to begin when the CRAT is established whether or not there is sufficient income to make the payment or whether the real estate has been sold and cash is available to make the payments.

Investments

The Investment Policy of the Foundation provides details concerning:

- General investment policies
- Duties and responsibilities of board, management, investment advisory committee and investment managers
- Strategic asset allocation and rebalancing
- Performance objectives
- Reporting objectives
- General securities guidelines
- Investment objectives of various portfolios and models

Cash received from donors or the liquidation of assets received from donors for a charitable remainder trust will be invested in the Life Income Portfolio. There are three models or assets allocations to choose from within the Life Income Portfolio: growth (70/30), balanced (50/50) and conservative (20/80). (See the Foundation's Investment Policy for a detailed breakdown of asset classes, their targets and acceptable ranges.)

The Director of Planned Giving must have each donor(s) complete a **Charitable Remainder Questionnaire** and review the investment options. The **Charitable Remainder Trusts Investment Allocations Form** must be reviewed, completed and signed by the donor(s). This Form summarizes the donor(s) investment objectives and the investment option selected by the donor with Foundation's approval. The Foundation ultimately has the fiduciary responsibility for the investment of charitable trusts. This process, however, brings the donor along side the Foundation in the allocation decision and helps them to understand the reasons behind the decision and the risks involved. A **Disclaimer** from the Foundation is given to the donor(s) when the Form is signed.

For a Charitable Remainder Annuity Trust, the **Questionnaire** will not be used, because their fixed payment will not fluctuate and therefore risk tolerance and investment objectives (income or growth) are not an issue. It is important that investment of the CRAT be discussed with the donor(s). Average return for the allocation net of fees should cover the fixed payment. If not the trust will be reduced. Donor(s) must be made aware that it is possible to exhaust the principal at which time all payments will cease.

Fees

Cash and Securities:

First \$250,000	1.25%
Next \$750,000	1.00%
Next \$2,000,000	.75%
Over \$3,000,000	.50%

Real Estate:

During the time that Real Estate is being marketed, no fees will be taken.

At the closing for the sale of Real Estate, the actual costs incurred by the Foundation will be paid out of the proceeds of the sale. Once the Real Estate is liquidated, the fee schedule for Cash and Securities will be followed.

Frequency:

Fees are stated on a per annum basis and taken from the account on a pro-rata monthly basis.

Accumulation of Trusts:

If an individual has more than one charitable trust with the Foundation, they are accumulated for purposes of calculating the fee charged.