

LIST OF CHAPTERS

Chapter 1	AN OVERVIEW OF CHARITABLE TRUSTS	1
Chapter 2	A TYPICAL CASE FOR A CHARITABLE REMAINDER TRUST	15
Chapter 3	TYPES OF CHARITABLE REMAINDER TRUSTS	19
Chapter 4	TAX ASPECTS OF CHARITABLE REMAINDER TRUSTS	25
Chapter 5	TRUSTEE OF THE CHARITABLE REMAINDER TRUST	31
Chapter 6	DRAFTING A CHARITABLE REMAINDER TRUST	33
Chapter 7	TRAPS FOR THE UNWARY: CHARITABLE REMAINDER TRUSTS	45
Chapter 8	SUITABLE ASSETS FOR A CHARITABLE REMAINDER TRUST	53
Chapter 9	EARLY TERMINATION OF THE CHARITABLE REMAINDER TRUST WITH DIVISION OF ASSETS TO DONOR AND CHARITY	57
Chapter 10	ADDITIONAL OPTIONS FOR EARLY TERMINATION OF THE CHARITABLE REMAINDER TRUST	63
Chapter 11	A TYPICAL CASE FOR A CHARITABLE LEAD TRUST	67
Chapter 12	TYPES OF CHARITABLE LEAD TRUSTS	71
Chapter 13	GRANTOR CHARITABLE LEAD TRUSTS	81
Chapter 14	TAX ASPECTS OF CHARITABLE LEAD TRUSTS	85
Chapter 15	TRUSTEE OF THE CHARITABLE LEAD TRUST	91
Chapter 16	DRAFTING A CHARITABLE LEAD TRUST	93

Chapter 17	TRAPS FOR THE UNWARY: CHARITABLE LEAD TRUSTS	99
Chapter 18	SUITABLE ASSETS FOR A CHARITABLE LEAD TRUST	105
Chapter 19	CREATIVE CHARITABLE LEAD TRUST PLANNING	109
APPENDICES		
Appendix A	IRS FORM 4720 — RETURN OF CERTAIN EXCISE TAXES	113
Appendix B	IRS FORM 5227 — SPLIT-INTEREST TRUST INFORMATION RETURN	125
Appendix C	IRS FORM 8283 — NONCASH CHARITABLE CONTRIBUTIONS AND IRS FORM 8282 — DONEE INFORMATION RETURN	135
Appendix D	RECEIPT FOR CONTRIBUTION TO CHARITABLE TRUST	143
Appendix E	SAMPLE CHARITABLE REMAINDER UNITRUST	147
Appendix F	REV. PROC. 2005-52 — IRS SAMPLE <i>INTER VIVOS</i> CRUT (ONE MEASURING LIFE)	173
Appendix G	REV. PROC. 2003-53 — IRS SAMPLE <i>INTER VIVOS</i> CRAT (ONE MEASURING LIFE)	207
Appendix H	REV. PROC. 2003-54 — IRS SAMPLE <i>INTER VIVOS</i> CRAT (TERM OF YEARS)	223
Appendix I	REV. PROC. 2003-55 — IRS SAMPLE <i>INTER VIVOS</i> CRAT (TWO MEASURING LIVES PAID CONSECUTIVELY)	241
Appendix J	REV. PROC. 2003-56 — IRS SAMPLE <i>INTER VIVOS</i> CRAT (TWO MEASURING LIVES PAID CONCURRENTLY AND CONSECUTIVELY) ...	259
Appendix K	REV. PROC. 2003-57 — IRS SAMPLE TESTAMENTARY CRAT (ONE MEASURING LIFE)	279
Appendix L	SAMPLE NON-GRANTOR CHARITABLE LEAD ANNUITY TRUST	293
Appendix M	SAMPLE GRANTOR CHARITABLE LEAD ANNUITY TRUST	317

List of Chapters

Appendix N	REV. PROC. 2007-45 — IRS SAMPLE CHARITABLE LEAD GRANTOR AND NONGRANTOR ANNUITY TRUSTS	345
Appendix O	LTR. RUL. 200208039 — EARLY TERMINATION OF CRUT	375
Appendix P	LTR. RUL. 200846037 — EARLY TERMINATION OF NIMCRUT	383
Appendix Q	LTR. RUL. 200817039 — EARLY TERMINATION OF CRT	391
Appendix R	SAMPLE PRIVATE AGREEMENT TO TERMINATE CRT	401
Appendix S	SAMPLE COURT PETITION TO TERMINATE CRT	407
Appendix T	LIST OF REV. PROCS. CONTAINING IRS SAMPLE FORMS FOR CHARITABLE REMAINDER ANNUITY TRUSTS	413
Appendix U	LIST OF REV. PROCS. CONTAINING IRS SAMPLE FORMS FOR CHARITABLE REMAINDER UNITRUSTS	417
Appendix V	UNITRUST TERMINATION VALUATION	421
Appendix W	AVOIDING CRAT PROBABILITY OF EXHAUSTION	425
Appendix X	GIFT OF UNDIVIDED INTEREST IN CRUT	433
	SUBJECT INDEX	443

TABLE OF CONTENTS

Chapter 1	AN OVERVIEW OF CHARITABLE TRUSTS	1
------------------	---	----------

EXHIBITS

	Exhibit 1A—Diagram of Tax Benefits of a Charitable Remainder Unitrust	3
	Exhibit 1B—Diagram of Tax Benefits of a Non-Grantor Charitable Lead Trust	9
	Exhibit 1C—Diagram of Tax Benefits of a Grantor Charitable Lead Trust	11
	Exhibit 1D—Section 7520 Rates (2010–2017)	13

Chapter 2	A TYPICAL CASE FOR A CHARITABLE REMAINDER TRUST	15
------------------	--	-----------

§ 2.1	A TYPICAL CASE FOR CRT PLANNING	15
§ 2.2	MEETING THE CLIENT’S OBJECTIVES — THE NIMCRUT	16

Chapter 3	TYPES OF CHARITABLE REMAINDER TRUSTS	19
------------------	---	-----------

§ 3.1	INTRODUCTION	19
§ 3.2	CHARITABLE REMAINDER ANNUITY TRUST (CRAT)	20
§ 3.3	CHARITABLE REMAINDER UNITRUST (CRUT)	20
	§ 3.3.1—Standard Charitable Remainder Unitrust (STANCRUT)	20
	§ 3.3.2—Net Income Charitable Remainder Unitrust (NICRUT)	21

Charitable Trusts

§ 3.3.3—Net Income with Make-Up Charitable Remainder Unitrust (NIMCRUT)	21
§ 3.3.4—Flip Charitable Remainder Unitrust (FLIPCRUT)	21
§ 3.4 TESTAMENTARY CHARITABLE REMAINDER TRUSTS	22
<hr/>	
Chapter 4 TAX ASPECTS OF CHARITABLE REMAINDER TRUSTS	25
<hr/>	
§ 4.1 OVERVIEW	25
§ 4.2 INCOME TAX MATTERS	25
§ 4.2.1—General Rules	25
§ 4.2.2—Income Tax Deduction Limitations	26
§ 4.2.3—Income Tax Status of a CRT	26
§ 4.2.4—Filing Requirements for a Charitable Income Tax Deduction	27
§ 4.3 GIFT TAX CONSEQUENCES	27
§ 4.4 ESTATE TAX TREATMENT	27
§ 4.5 TAXATION OF DISTRIBUTIONS FROM A CRT	28
EXHIBIT	
Exhibit 4A—Limitations on Charitable Income Tax Deductions	29
<hr/>	
Chapter 5 TRUSTEE OF THE CHARITABLE REMAINDER TRUST	31
<hr/>	
§ 5.1 WHO MAY SERVE AS TRUSTEE	31
§ 5.2 DUTIES OF THE TRUSTEE	32

Table of Contents

Chapter 6	DRAFTING A CHARITABLE REMAINDER TRUST	33
------------------	--	----

§ 6.1	REQUIRED AND/OR ADVISABLE PROVISIONS	33
	§ 6.1.1—Trust Must Be Irrevocable	33
	§ 6.1.2—Payment to Recipient	34
	§ 6.1.3—Designation of Single or Joint Recipients	37
	§ 6.1.4—Limitation on Payments to Non-charitable Beneficiaries	37
	§ 6.1.5—Additional Contributions to the Trust	38
	§ 6.1.6—Valuation Date of CRUT Assets	38
	§ 6.1.7—Adjustment for Incorrect Valuation	38
	§ 6.1.8—Valuation of Unmarketable Assets	39
	§ 6.1.9—Distribution of Remainder to Charity	39
	§ 6.1.10—No Investment Restrictions	40
	§ 6.1.11—No Payment of Transfer Taxes from Trust	41
	§ 6.1.12—Private Foundation Restrictions	41
	§ 6.1.13—Capital Gain Allocation Provision	42
§ 6.2	SAMPLE CHARITABLE REMAINDER UNITRUST	43
§ 6.3	OOPS! CORRECTING ERRORS	43

Chapter 7	TRAPS FOR THE UNWARY: CHARITABLE REMAINDER TRUSTS	45
------------------	--	----

§ 7.1	PREARRANGED SALES	45
§ 7.2	PROPERTY ENCUMBERED BY DEBT	45
	§ 7.2.1—Recourse Mortgage Debt	45
	§ 7.2.2—Debt-Financed Property	46
§ 7.3	UNRELATED BUSINESS TAXABLE INCOME	46
	§ 7.3.1—Definition of UBTI	46
	§ 7.3.2—Exceptions	47

Charitable Trusts

§ 7.4	SELF-DEALING	47
	§ 7.4.1—Disqualified Persons	47
	§ 7.4.2—Prohibited Transactions	48
	§ 7.4.3—Exceptions	48
§ 7.5	OTHER PRIVATE FOUNDATION RULES	49
	§ 7.5.1—Taxable Expenditures	49
	§ 7.5.2—Excess Business Holdings	49
	§ 7.5.3—Jeopardizing Investments	50
§ 7.6	10 PERCENT MINIMUM CHARITABLE BENEFIT RULE	50
§ 7.7	5 PERCENT PROBABILITY OF EXHAUSTION TEST	51
<hr/>		
Chapter 8	SUITABLE ASSETS FOR A CHARITABLE REMAINDER TRUST	53
<hr/>		
§ 8.1	REAL ESTATE	53
§ 8.2	SECURITIES	54
	§ 8.2.1—Publicly Traded Securities	54
	§ 8.2.2—Privately Held Securities	54
§ 8.3	INSTALLMENT SALE CONTRACTS	55
§ 8.4	PARTNERSHIP INTERESTS	55
§ 8.5	TANGIBLE PERSONAL PROPERTY	55
	§ 8.5.1—Gold Coins	56

Table of Contents

Chapter 9	EARLY TERMINATION OF THE CHARITABLE REMAINDER TRUST WITH DIVISION OF ASSETS TO DONOR AND CHARITY	57
------------------	---	-----------

§ 9.1	REASONS FOR EARLY TERMINATION	57
§ 9.2	INTERNAL REVENUE SERVICE RULINGS ON TRUST TERMINATION	58
	§ 9.2.1—Basic Requirements (PLR 200208039)	58
	§ 9.2.2—The Good Health Issue	59
	§ 9.2.3—Division and Termination (PLR 201648007)	59
	§ 9.2.4—Procedural Matters	60
	§ 9.2.5—Early Termination When a Private Foundation is a Remainder Beneficiary	61
§ 9.3	INCOME TAX CONSEQUENCES OF TERMINATION	61
	§ 9.3.1—The Four-Tier Rule	61
	§ 9.3.2—The Capital Gain Exception to the Four-Tier Rule	61
	§ 9.3.3—Valuation of the Charitable and Non-Charitable Interests	62
	§ 9.3.4—IRS No Ruling Position	62

Chapter 10	ADDITIONAL OPTIONS FOR EARLY TERMINATION OF THE CHARITABLE REMAINDER TRUST	63
-------------------	---	-----------

§ 10.1	ALTERNATIVES OTHER THAN DIVISION OF ASSETS	63
§ 10.2	OUTRIGHT GIFT TO THE CHARITABLE REMAINDERMAN	63
§ 10.3	SALE OF INCOME INTEREST TO THE CHARITABLE REMAINDERMAN	63

Charitable Trusts

§ 10.4	EXCHANGE FOR A CHARITABLE GIFT ANNUITY	64
§ 10.5	RESCISSION	64
§ 10.6	GIFT OF UNDIVIDED INTEREST	65
§ 10.7	NEED FOR ONE’S OWN RULING	66

Chapter 11 A TYPICAL CASE FOR A CHARITABLE LEAD TRUST 67

§ 11.1	A TYPICAL CASE FOR CLT PLANNING	67
§ 11.2	MEETING THE CLIENT’S OBJECTIVES	68
	§ 11.2.1—Tax Advantages of a CLT	68
	§ 11.2.2—Non-Tax Advantages of a CLT	68
	§ 11.2.3—Disadvantages of a CLT	69

Chapter 12 TYPES OF CHARITABLE LEAD TRUSTS 71

§ 12.1	INTRODUCTION: WHAT IS A CHARITABLE LEAD TRUST?	71
§ 12.2	CHARACTERISTICS COMMON TO BOTH CLATs AND CLUTs	71
	§ 12.2.1—The Charitable Interest	71
	§ 12.2.2—Payment Source	72
	§ 12.2.3—Term	72
	§ 12.2.4—The Charitable Beneficiary (or Beneficiaries) ...	73
	§ 12.2.5—The Remainder Interest	74
§ 12.3	CLATs	75
	§ 12.3.1—The Lead Interest	75
	§ 12.3.2—Advantages of CLATs	77
	§ 12.3.3—Disadvantages of CLATs	77

Table of Contents

§ 12.4	CLUTs	77
	§ 12.4.1—The Lead Interest	77
	§ 12.4.2—Advantages of CLUTs	78
	§ 12.4.3—Disadvantages of CLUTs	79
<hr/>		
Chapter 13	GRANTOR CHARITABLE LEAD TRUSTS	81
<hr/>		
§ 13.1	INTRODUCTION	81
§ 13.2	ADVANTAGES OF A GRANTOR CLT	81
§ 13.3	INCOME TAX IMPACT OF GRANTOR TRUST STATUS	82
	§ 13.3.1—Calculating the Income Tax Deduction	82
	§ 13.3.2—Tangible Personal Property	82
	§ 13.3.3—Distributions of Excess Income to Charitable Lead Beneficiary	82
	§ 13.3.4—Potential for Conversion to a Complex Trust	83
§ 13.4	GIFT TAX IMPACT OF GRANTOR TRUST STATUS	83
§ 13.5	ESTATE TAX IMPACT OF GRANTOR TRUST STATUS	83
§ 13.6	TRIGGERING GRANTOR TRUST STATUS	83
<hr/>		
Chapter 14	TAX ASPECTS OF CHARITABLE LEAD TRUSTS	85
<hr/>		
§ 14.1	OVERVIEW	85
§ 14.2	INCOME TAX	85
	§ 14.2.1—General Rule	85
	§ 14.2.2—Source-Ordering Provisions	86
	§ 14.2.3—Preparing for the Possibility of Excess Income	86

Charitable Trusts

§ 14.3	GIFT TAX	87
§ 14.4	ESTATE TAX	88
	§ 14.4.1— <i>Inter Vivos</i> CLTs	88
	§ 14.4.2—Testamentary CLTs	88
§ 14.5	GENERATION-SKIPPING TRANSFER TAX	89
<hr/>		
Chapter 15	TRUSTEE OF THE CHARITABLE LEAD TRUST	91
<hr/>		
§ 15.1	WHO MAY (AND MAY NOT) SERVE AS TRUSTEE	91
	§ 15.1.1—Institutional Trustee	91
	§ 15.1.2—Charitable Lead Beneficiary	91
	§ 15.1.3—The Donor or Members of the Donor’s Family ..	91
§ 15.2	RECOMMENDATIONS REGARDING TRUSTEES ...	92
	§ 15.2.1—Disinterested Trustee	92
	§ 15.2.2—Reasonable Compensation	92
	§ 15.2.3—Valuation of Assets	92
<hr/>		
Chapter 16	DRAFTING A CHARITABLE LEAD TRUST	93
<hr/>		
§ 16.1	HISTORICAL BACKGROUND	93
§ 16.2	A WORD REGARDING THE IRS FORMS	94
§ 16.3	RECOMMENDED PROVISIONS	95
	§ 16.3.1—Charitable Deduction Saving Clause	95
	§ 16.3.2—Prohibit Commutation	95
	§ 16.3.3—Trustees’ Fees	95
	§ 16.3.4—Preparing for the Possibility of Additional Contributions	96

Table of Contents

§ 16.3.5—Preparing for Economic Uncertainty 96
§ 16.3.6—Increase Annuity Amount Year over Year 96
§ 16.3.7—Selecting the Applicable § 7520 Rate 96

**Chapter 17 TRAPS FOR THE UNWARY: CHARITABLE
LEAD TRUSTS 99**

§ 17.1 DEBT-FINANCED PROPERTY 99

§ 17.2 UNRELATED BUSINESS TAXABLE INCOME 99

§ 17.2.1—Definition of UBTI 99

§ 17.2.2—Exceptions 100

§ 17.3 SELF-DEALING 101

§ 17.3.1—Disqualified Persons 101

§ 17.3.2—Prohibited Transactions 101

§ 17.3.3—Exceptions 101

§ 17.4 ADDITIONAL PRIVATE FOUNDATION RULES 102

§ 17.4.1—Taxable Expenditures 102

§ 17.4.2—Excess Business Holdings 103

§ 17.4.3—Jeopardizing Investments 103

§ 17.5 NEED FOR ONE’S OWN RULING 104

Chapter 18 SUITABLE ASSETS FOR A CHARITABLE LEAD TRUST 105

§ 18.1 REAL ESTATE 105

§ 18.2 SECURITIES 106

§ 18.2.1—Publicly Traded Securities 106

§ 18.2.2—Privately Held Securities 106

§ 18.3 INSTALLMENT SALE CONTRACTS 106

Charitable Trusts

§ 18.4 PARTNERSHIP INTERESTS 107

§ 18.5 TANGIBLE PERSONAL PROPERTY 107

Chapter 19 CREATIVE CHARITABLE LEAD TRUST PLANNING 109

§ 19.1 INTRODUCTION 109

§ 19.2 CLT + FAMILY LIMITED PARTNERSHIP 109

§ 19.3 LAYERED TESTAMENTARY LEAD TRUST 110

§ 19.4 COMBINATION CLT/CRT 110

§ 19.5 “SHARK FIN” CLAT 110

§ 19.6 SUPERGRANTOR CHARITABLE LEAD TRUST ... 112

§ 19.7 DIVISION OF CHARITABLE LEAD TRUST
INTO SEPARATE TRUSTS 112

APPENDICES

**Appendix A IRS FORM 4720 — RETURN OF
CERTAIN EXCISE TAXES 113**

**Appendix B IRS FORM 5227 — SPLIT-INTEREST
TRUST INFORMATION RETURN 125**

**Appendix C IRS FORM 8283 — NONCASH CHARITABLE
CONTRIBUTIONS AND IRS FORM 8282 —
DONEE INFORMATION RETURN 135**

**Appendix D RECEIPT FOR CONTRIBUTION
TO CHARITABLE TRUST 143**

**Appendix E SAMPLE CHARITABLE REMAINDER
UNITRUST 147**

Table of Contents

Appendix F	REV. PROC. 2005-52 — IRS SAMPLE <i>INTER VIVOS</i> CRUT (ONE MEASURING LIFE)	173
Appendix G	REV. PROC. 2003-53 — IRS SAMPLE <i>INTER VIVOS</i> CRAT (ONE MEASURING LIFE)	207
Appendix H	REV. PROC. 2003-54 — IRS SAMPLE <i>INTER VIVOS</i> CRAT (TERM OF YEARS)	223
Appendix I	REV. PROC. 2003-55 — IRS SAMPLE <i>INTER VIVOS</i> CRAT (TWO MEASURING LIVES PAID CONSECUTIVELY)	241
Appendix J	REV. PROC. 2003-56 — IRS SAMPLE <i>INTER VIVOS</i> CRAT (TWO MEASURING LIVES PAID CONCURRENTLY AND CONSECUTIVELY) . . .	259
Appendix K	REV. PROC. 2003-57 — IRS SAMPLE TESTAMENTARY CRAT (ONE MEASURING LIFE)	279
Appendix L	SAMPLE NON-GRANTOR CHARITABLE LEAD ANNUITY TRUST	293
Appendix M	SAMPLE GRANTOR CHARITABLE LEAD ANNUITY TRUST	317
Appendix N	REV. PROC. 2007-45 — IRS SAMPLE CHARITABLE LEAD GRANTOR AND NONGRANTOR ANNUITY TRUSTS	345
Appendix O	LTR. RUL. 200208039 — EARLY TERMINATION OF CRUT	375
Appendix P	LTR. RUL. 200846037 — EARLY TERMINATION OF NIMCRUT	383
Appendix Q	LTR. RUL. 200817039 — EARLY TERMINATION OF CRT	391

Charitable Trusts

Appendix R **SAMPLE PRIVATE AGREEMENT TO
TERMINATE CRT** 401

Appendix S **SAMPLE COURT PETITION TO
TERMINATE CRT** 407

Appendix T **LIST OF REV. PROCS. CONTAINING
IRS SAMPLE FORMS FOR CHARITABLE
REMAINDER ANNUITY TRUSTS** 413

Appendix U **LIST OF REV. PROCS. CONTAINING
IRS SAMPLE FORMS FOR CHARITABLE
REMAINDER UNITRUSTS** 417

Appendix V **UNITRUST TERMINATION VALUATION** 421

Appendix W **AVOIDING CRAT PROBABILITY
OF EXHAUSTION** 425

Appendix X **GIFT OF UNDIVIDED INTEREST IN CRUT** ... 433

SUBJECT INDEX 443
