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Understanding Charitable Remainder Trusts (CRTs): Choosing the Right Structure for Income and Charitable Giving

Comparing CRATs, CRUTs, and Specialized CRT Strategies for Tax-Efficient Wealth Transfer and Philanthropy

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Executive Summary

Charitable Remainder Trusts (CRTs) are powerful estate and tax planning vehicles that provide income to non-charitable beneficiaries for a specified period, with the remaining assets ultimately passing to charity. CRTs offer several benefits, including tax-free asset sales at the trust level, charitable income tax deductions, estate tax reduction opportunities, and the ability to diversify appreciated assets without immediate capital gains tax consequences. Donors can choose between a Charitable Remainder Annuity Trust (CRAT), which provides fixed annual payments, and a Charitable Remainder Unitrust (CRUT), which provides variable payments based on annually revalued assets. Specialized CRUT variations, such as NICRUTs, NIMCRUTs, and Flip CRUTs, offer additional flexibility for illiquid or non-income-producing assets, making CRTs adaptable to a wide range of financial and charitable objectives.

Key Takeaway: The success of a Charitable Remainder Trust depends on selecting the structure that best aligns with the donor's income needs, asset profile, and charitable goals while satisfying the trust's required charitable remainder interest.

Understanding Charitable Remainder Trusts (CRTs)

A **Charitable Remainder Trust (CRT)** under **IRC § 664** is an irrevocable, tax-exempt split-interest trust designed to generate an income stream for non-charitable beneficiaries (often the donor) for life or a term of up to 20 years, with the remaining principal passing to designated charities.

CRTs allow donors to contribute appreciated assets tax-free at the entity level, diversify holdings without immediate capital gains tax, receive an immediate charitable income tax deduction, and reduce their gross estate.



The Primary CRT Variations

CRTs are divided into two primary categories based on how distributions are calculated: **Annuity Trusts (CRATs)** and **Unitrusts (CRUTs)**.

CRAT (Annuity)	CRUT (Unitrust)
Fixed dollar payout	Variable payouts
Best for market stability	Best for inflation hedge
No additional contributions	Additional contributions permitted

1. Charitable Remainder Annuity Trust (CRAT)

- **Payout Structure:** Pays a fixed dollar amount annually (at least 5% but no more than 50% of the initial fair market value of the assets placed in trust).
- **Key Characteristics:** The payout never changes regardless of market fluctuations or investment performance. **No additional contributions** are permitted after initial funding.
- **Best Uses:** Ideal for older donors seeking guaranteed, predictable cash flow who prefer stability over growth and are transferring liquid or easily marketable assets.

2. Charitable Remainder Unitrust (CRUT)

- **Payout Structure:** Pays a fixed percentage (at least 5% and no more than 50%) of the trust's assets revalued annually.
- **Key Characteristics:** Annual income varies with market performance, offering an inflation hedge. Additional contributions can be made over time.
- **Best Uses:** Best for younger donors or those who want their annual distributions to grow alongside long-term market appreciation.

Specialized CRUT Variations for Illiquid Assets

Standard CRUT payouts can create liquidity crises if the trust holds hard-to-value or non-income-producing assets (e.g., real estate or private equity). To solve this, three specialized CRUT sub-types exist:

- **NICRUT (Net Income CRUT):** Pays the *lesser* of the fixed unitrust percentage or the trust's actual fiduciary accounting income (FAI). If the trust earns no income, no distribution is required.
- **NIMCRUT (Net Income with Make-Up CRUT):** Operates like a NIMRUT, but contains a "make-up" provision. Any underpayment below the target percentage is tracked and repaid in future years when trust income exceeds the unitrust rate (often triggered by realizing capital gains).
- **Flip CRUT:** Starts as a NICRUT/NIMCRUT while holding an illiquid asset. Upon the sale of the asset (a triggering event), it automatically converts ("flips") into a standard CRUT on January 1 of the following year, establishing regular annual percentage payouts from the liquid proceeds.

Practitioner Note: All CRTs must satisfy the 10% **minimum charitable remainder requirement** (IRC § 664(d)(1)(D)/(2)(D)), ensuring the present value of the ultimate charitable remainder interest equals at least 10% of the initial net fair market value of contributed property.

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