Charitable Remainder Trusts

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CHARITABLE REMAINDER TRUSTS

Course objectives: This course will provide a reviewan analysis of the planning and preparation of charitable remainder trusts (CRTs) and as well as their tax benefits to donors. Topics discussed include: split-interest trusts in general; CRATs, CRUTs, NIMCRUTs, NICRUTs, and FLIP CRUTs; filing issues, the "probability of exhaustion" test; income and gift tax consequences; ordering rules for distributions; the simplified net investment income calculation (SNIIC) election; and much more.

After completing this course, you will be able to:

- Recall how the annual fixed percentage of a charitable remainder unitrust is determined
- Determine the timing and amount of the income tax deduction for a charitable gift to a CRT
- Recall what happens to the unitrust amount following a trigger event precipitating a FLIP CRUT
- Identify the consequences of putting a provision in a CRAT regarding the probability of exhaustion
- Identify the characteristics of distributions in the hands of beneficiaries receiving annuities
- Determine how the SNIIC election affects accumulated net investment income

Category: Taxes

Recommended CPE Hours: CPAs – 2 Tax
EAs/CRTPs – 2 Federal Tax

Level: Intermediate

Prerequisite: General knowledge of estates and trusts is required.

Advance Preparation: None

Expiration Date: August 2020

Charitable Remainder Trusts

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DEFINITIONS[1]

Split-interest trust. A split-interest trust is a trust that:

- Is not exempt from tax under section 501(a)[2];
- Has some unexpired interests that are devoted to purposes other than religious, charitable, or similar purposes described in section 170(c)(2)(B)[3]; and
- Has amounts transferred in trust after May 26, 1969, for which a deduction was allowed under one of the sections listed in section 4947(a)(2)[4].

A split-interest trust is subject to many of the same requirements and restrictions that are imposed on private foundations.

Charitable remainder annuity trust (CRAT). This is a split-interest trust described in section 664(d). It pays a fixed dollar (annuity) amount, at least annually, to one or more recipients, at least one of which is not a charitable organization. The annuity amount must be at least 5%, but cannot exceed 50%, of the initial net fair market value (FMV) of all property contributed to corpus, subject to the further requirement that the remainder interest in the trust (measured at the time property is transferred to the trust) must have a value of at least 10% of the FMV of the initial trust corpus and pass a 5% probability of exhaustion test. Payments to the recipient continue for a period of years. The period, if stated as a specific number, cannot exceed 20 years. The period can also be determined by the lifespan of one or more recipients. Whether the period is a fixed number of years, or is measured by an individual's lifespan, the value of the remainder interest must be at least 10% of the FMV of the property transferred to the trust. Upon termination of the recipient's entitlement to the annuity amount, the remainder interest passes to a charitable organization described in section 170(c), or qualified employer securities are transferred to an employee stock ownership plan.

Charitable remainder unitrust (CRUT). This is a split-interest trust described in section 664(d)(2). It is similar in many respects to a CRAT except that the amount payable to the recipient annually (the unitrust amount) is a fixed percentage (not less than 5% but not more than 50%) of the net FMV of the trust's assets, subject further to the requirement described above that the remainder interest must have a value of at least 10% of the value of the initial trust corpus, determined at the time property is transferred to the trust. Because the unitrust amount is calculated annually based upon the FMV of trust corpus, and is not a fixed amount determined upon the creation of the trust, the trustee must determine the FMV of the assets of the trust annually. Upon

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[1] From IRS Instructions to Form 5227
https://www.irs.gov/pub/irs-pdf/i5227.pdf?_ga=1.60457389.1081678471.1386573839

[2] 26 U.S. Code § 501 - Exemption from tax on corporations, certain trusts, etc.

[3] 26 U.S. Code § 170 - Charitable, etc., contributions and gifts

[4] 26 U.S. Code § 4947 - Application of taxes to certain nonexempt trusts

termination of the recipient's entitlement to payments of the unitrust amount, the remainder interest is transferred to a charitable organization described in section 170(c), or qualified employer securities are transferred to an employee stock ownership plan.

The trust agreement for a CRUT may allow the trustee to distribute less than the full unitrust amount in years when the trust income (as defined under section 643(b)) is less than the unitrust amount. A Net-Income Makeup Charitable Remainder Unitrust (NIMCRUT) is a charitable remainder unitrust that allows payment of the unitrust amount to be deferred in years when the unitrust amount exceeds trust income, with the deferred distributions being made up in a later year when the trust has sufficient income. A Net Income Charitable Remainder Unitrust (NICRUT) is a charitable remainder unitrust that allows for deferral of the unitrust payment (as described above), but does not provide for deferred distributions to be made up in future years.

Recipient. A recipient is a beneficiary who receives the possession or beneficial enjoyment of the unitrust or annuity amount.

WHAT'S SO GREAT ABOUT CRTS[5]?

- Charitable Remainder Trusts are typically individually created to precisely match the plans and preferences of the individual donor. This flexibility does come at a cost, specifically the cost of individually constructing and annually maintaining the trust.

- Upon bringing the trust into existence, it is itself a charitable entity. The CRT is a tax-exempt entity and pays no income tax. It pays no income tax on any of its income and it recognizes no gains on sales of appreciated properties[6].

  Exception: The courts will collapse separate transactions if, when the first step was undertaken, there was a binding commitment to undertake the later steps[7].

- Qualifying The CRT Under Section 664: The CRT must be a valid trust under applicable state law[8]. The CRT must also be irrevocable[9].

- The charitable beneficiary of a Charitable Remainder Trust may not even know of its existence until receiving the final distribution check.

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[5] Charitable Remainder Trusts, Part 1 of 4 by Russell N. James III, J.D., Ph.D., CFP As published http://www.pgdc.com/g/russell-n-james-iii-jd-phd-cfp

[6] IRC §664(c)

[7] Maine Foods, Inc. v. Commissioner, 93 T.C. 181 (1989)

[8] IRC §§664(d)(1) & 664(d)(2); Rev. Proc. 89-20, 1989-1 C.B. 841; Rev. Proc. 89-21, 1989-1 C.B. 842.

[9] Treas. Reg. §1.664-1(a)(1)(i)

- Beneficiary payments need not go to the donor, but could instead go to someone else selected by the donor. The payment recipients (a.k.a. annuitants) could even be a combination of the donor, the donor's friends or family, or other charities. (However, at least one beneficiary must be non-charitable.)

- Distributions are typically paid for the donor's life (or the joint lives of the donor and the donor's spouse). However, a Charitable Remainder Trust can pay for any number of lives. The only requirement: the individuals must be alive at the creation of the Charitable Remainder Trust.

- A Charitable Remainder Trust can also pay for a fixed period, not exceeding 20 years. Additionally, the terms can be combined. Thus, the payment could be made for the donor's life or 20 years whichever is longer[10].

- A donor can transfer cash or property to a CRT. However, most frequently we see highly appreciated property as the initial funding asset thereby avoiding capital gains taxes.

- The Charitable Remainder Unitrust allows the recipient to benefit from investment growth within the trust. Charitable Remainder Unitrust payments can be a fixed percentage annually (minimum of 5%) of all trust assets for the life of the trust. Mathematically, the trust will never be exhausted, but could become smaller and smaller over time.

  If the assets in a Charitable Remainder Annuity Trust are exhausted (either due to poor investments or exceptional longevity of the annuitant) the annuity payments will cease.

- The donor creates the rules in a Charitable Remainder Trust, so long as those rules fit within the general guidelines for Charitable Remainder Trusts established by the Internal Revenue Code[11]. Once established, the trust is irrevocable.

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[10] Treas Reg. 1.664-3(a)(5)(ii).

[11] For sample forms of trusts that meet the requirements of a charitable remainder unitrust, see Rev. Procs. 2005-52 through 2005-59, 2005-2 C.B. 326, 339, 353, 367, 383, 392, 402, and 412.

For sample forms of a trust that meet the requirements of a charitable remainder annuity trust, see Rev. Procs. 2003-53 through 2003-60, 2003-2 C.B. 230, 236, 242, 249, 257, 262, 268, and 274.

- This irrevocability is what allows the Charitable Remainder Trust to become a charitable entity (i.e., it cannot later be made less charitable). Irrevocability also allows the donor to take a tax deduction for a portion of his or her transfer to the trust.

- The donor gets a charitable income tax deduction in the year of the gift for the fair market value of the remainder interest passing to charity limited to 30% of his/her AGI with a five-year carry-forward[12].

- In many cases, the donor may act as trustee of the Charitable Remainder Trust and continue to manage the assets and investments.

- The donor is permitted to decide which charity will receive the remainder interest at the termination of the Charitable Remainder Trust. (And, they can change their mind during their lifetime.)

- ***Tax Benefits!*** By using a Charitable Remainder Trust the donor receives an immediate income tax deduction for a transfer that will not go to charity for many years.

- ***Tax Benefits!*** A CRT facilitates the postponement or avoidance of capital gains taxes; highly appreciated assets can be transferred into the CRT without triggering recognition of capital gain.

  The Charitable Remainder Trust is itself a nonprofit entity. As such, the trust can have capital gains and earn income while paying no taxes. This creates two dramatic tax advantages. First, the donor can take payments from the full sale value of the highly appreciated asset, undiminished by capital gains taxes. Second, all future investment growth taking place inside the Charitable Remainder Trust occurs without taxation, excepting only potential taxation on the payments received by the donor.

- **Investment Benefits.** The Charitable Remainder Trust offers the attractive option of being able to sell and reinvest a highly appreciated asset with no reduction by capital gains taxes.

- **Variations on the theme: Net Income Charitable Remainder Unitrust (NICRUT).** This trust operates like a standard Charitable Remainder Unitrust,

[12] IRC §170(b)(1)(B)

with the exception that payments to the annuitant will be limited to the *lesser* of trust income or the unitrust percentage.

The **Net Income Makeup Charitable Remainder Unitrust (NIMCRUT)** has a similar provision limiting payments to net income, but also has the added provision that previously foregone payments (due to insufficient income) can later be made up whenever income is larger than the regular payments. Thus, although payments are still limited to net income, a payment in a particular year may be larger than the standard percentage amount in order to make up past payments that were missed.

- **The FLIP CRUT**: The regulations also sanction a fourth type of CRUT called the "FLIP CRUT." A FLIP CRUT is a CRUT[13]:

  1) where the initial unitrust amount to the recipient is the lesser of income or the fixed percentage; and
  2) where after a triggering event, the unitrust amount changes (i.e., flips) to the fixed percentage.

  Under the final regulations, the following requirements must be satisfied to use the FLIP CRUT:

  1) the change (FLIP) from the NIMCRUT (NICRUT) to the fixed percentage CRUT is triggered on a specific date or by a single event whose occurrence is not discretionary with, or within the control of, the trustee or any other person;
  2) the FLIP occurs at the beginning of the taxable year that immediately follows the taxable year during which the triggering event/date occurs;
  3) following the flip, the CRT becomes a fixed percentage CRT (and the makeup account is forfeited). [Treas. Reg. 1.664-3(a)(l)(i)(c)]

  A triggering event based on the sale of unmarketable assets or the marriage, divorce, death, or birth of a child with respect to any individual will not be considered discretionary with, or within the control of the trustees or any other person

- The trust must either be a CRAT or a CRUT. The trust cannot be a combination of a CRAT and a CRUT[14].

[13] The amendments allowing a FLIP CRUT are effective for CRUTs created on or after December 10, 1998.
[14] Treas. Reg. §1.664-1(a)(2)

Additional contributions cannot be made to a CRAT because the annuity amount is based on the value of the assets only valued as of creation. The governing instrument of the CRAT must prohibit additional contributions. Additional contributions can be made to a CRUT as long as the governing instrument provides a formula upon which to base the unitrust amount, which takes into account the additional contribution[15].

- A qualified appraisal is required when the CRT holds unmarketable assets as defined in Treas. Regs. §1.664-1(a)(7)(ii). The appraisal must be prepared no earlier than 60 days prior to the date that the contribution is made and must be prepared no later than the due date of the return (with extensions) on which the deduction is claimed[16].

STEPS IN THE PROCESS:

1. Have the property you intend to contribute appraised by a qualified appraiser (unless the assets value can be readily determined through public information channels, like marketable securities). This should be done proximate in time to the contribution date, but not later than the date the tax deduction is taken on the grantor's individual income tax return.

2. Create the trust instrument. Most grantors prefer to have the trust document drawn by their estate and trust attorney. However, IRS provides specific language in sample forms of trusts that meet the requirements of a charitable remainder annuity trust.

3. Fund the trust by transferring assets or cash to the entity.
   NOTE: Having met the requirements for bringing the trust into existence in reliance on the required language IRS provides, the entity is immediately tax exempt.

4. Typically the funding assets are sold and the proceeds diversified into a prudently directed portfolio that will provide both income and growth over the grantor/income beneficiary's lifetime and assure a balance is available to the remainder beneficiary.

5. Per the terms of the agreement, either monthly, quarterly, bi-annually or annual distributions are determined based on the original funding value. (For CRATs

[15] Treas. Reg. §§1.664-2(b) & 1.664-3(b)
[16] Treas. Reg. §1.170A-13(c)

this amount will remain constant over the term of the trust; for a CRUT, the amount will be re-determined annually.) During the initial year the annual distribution amount is computed based on a 365/366 day year, and adjusted accordingly for the period the trust exists the first year.

6. A gift tax return, Form 706, must be filed to report the split interest transfer for the year of funding. If additions to the trust are allowed and made in the future, additional gift tax returns must be filed for those additions to the trust. A copy of the trust document must accompany the gift tax return.

7. The initial filing of Form 5227 must be filed by April 15 of the first tax year. A three-month extension is available; and additional three months may be requested after the initial extension is granted. When you file the first return for a charitable remainder annuity trust or unitrust, include:
    - A copy of the trust instrument, and
    - A written declaration under penalties of perjury that it is a true and complete copy.

8. **Form 8282**. Form 8282, Donee Information Return must be filed by the trustee of the CRT if such trust sells, exchanges, or otherwise disposes of certain trust assets within two years after the date the CRT received the property.

WHAT NOT TO DO:

JOSEPH MOHAMED, SR. AND SHIRLEY MOHAMED, Petitioners v. COMMISSIONER OF INTERNAL REVENUE, Respondent. Docket Nos. 13947-07, 12882-08; Filed May 29, 2012.

From Judge Holmes Memorandum and statement of Background: *Joseph and Shirley Mohamed donated extremely valuable real estate to charity in 2003 and 2004, but didn't follow the Commissioner's directions about how to document their donations. Even though the property was quite likely more valuable than the Mohameds reported on their tax returns.*

Joseph Mohamed, Sr., is a real-estate broker, a certified real-estate appraiser, and a prominent Sacramento entrepreneur. During a long career he has amassed a fortune in real estate. He and his wife Shirley wanted to put their wealth to good use, and in 1998 they formed The Joseph Mohamed, Sr. and Shirley M. Mohamed Charitable Remainder Unitrust II.

Mohameds intended that whatever was left in the Trust after their deaths would go to the Shriners Hospitals for Children, the Sacramento Food Bank & Family Services, and the Pacific Legal Foundation.

In 2003 the Mohameds donated five properties worth millions of dollars to the Trust. Four of the properties were on the same street corner in Rio Linda, California, a city just north of Sacramento (Rio Linda properties); the other one was 40 acres of subdivided land on Calvine Road south of Sacramento (Calvine Road property). Joseph filled out the 2003 tax return himself, including the Form 8283, Noncash Charitable Contributions. He admits that he did not read the instructions before completing the form, because he says it seemed so clear that he didn't think he needed to even though, in fairness to the Commissioner, the form does say right at the top and center: "See separate instructions." It's easy to see why Joseph thought so: The form says that section B, part I (the description of the donated properties) could be "completed by the taxpayer and/or appraiser." It also notes that "If your total art contribution deduction was $20,000 or more you must attach a complete copy of the signed appraisal. See instructions." The Mohameds were not donating art; they were donating real estate. Nowhere else on the form did it indicate that a taxpayer had to attach an appraisal.

Joseph left blank section A, meant for donations worth less than $5,000. In section B, the Appraisal Summary, he used his own appraisals of the parcels, reporting that he had donated "4 parcels of land, 2 with improvements," worth $1,010,388, and a "40 acre parcel of vacant land," worth $14,873,921. He didn't report his basis, but stated that he had bought all the properties in the 1970s and 1980s. Joseph claimed deductions of $229,196 for the Rio Linda properties and $3,629,534 for the Calvine Road property, carrying forward the rest of the charitable deduction.

He left blank the Declaration of Appraiser because it stated, "I declare that I am not the donor, the donee, a party to the transaction," and Joseph recognized that he was the donor (and the donee, since he was trustee of the Trust). But he did sign the Donee Acknowledgment saying that the Trust was a qualified organization under section 170(c) (governing which organizations qualify as charities) and that the Trust had actually received the claimed donations.
He also attached two statements to the tax return. The first was a document titled "Statement of Explanation for Entry on Line 6 of Schedule A." This gave the addresses of the properties, more detailed descriptions of their size and improvements, and values for each of the four Rio Linda properties. It also showed that the total value of the Calvine Road property was more than $15 million. The second one, titled "Appraised Market Values," elaborated on the Calvine Road appraisal, and itemized some of the expenses related to its improvement. Joseph signed the second document, and under his signature indicated that his title was "Real Estate Broker/Appraiser." He says he claimed a lower value on the Form 8283 than he thought might be justified because he didn't want to risk overvaluing the property.

In 2004 the Mohameds donated a shopping center in Elk Grove, California, a town southeast of Sacramento, to the Trust. Joseph again filled out the 2004 return (which *had the same ambiguous references to appraisals) himself, and again did not read the instructions. On his 2004 Form 8283, Joseph wrote the address of the shopping mall and valued it at $2 million. He wrote "statement attached" in the boxes marked "Date acquired by donor" and "How acquired by donor," but left blank the box where he should have written his basis. He claimed a $488,040 deduction for 2004. He again didn't sign the declaration, but did sign the done acknowledgment on behalf of the Trust.*

He submitted the attached statement on the letterhead of Joseph Mohamed Enterprises, which had the uppercase-R "realtor" logo on it. It said only: "2004 Form 8283, Section B, Part 1, Line 5-A, column d: The donor purchased the land in August 1969, and then completed building the shopping center in September 1977. This property is known as 9738-9756 Elk Grove-Florin Rd., Elk Grove, CA." His statement gave no appraisal information, and he did not sign it.

Joseph prepared another statement for the shopping center that looked much like the one he attached to his 2003 return. This one listed the income and expenses from the shopping center and used a 6.5% "cap rate" to compute a market value of $2,642,190.62. Joseph signed this statement, but listed his job title as "Owner and Licensed Real Estate Broker." Joseph says he attached this to his 2004 tax return, but the Commissioner says he didn't get it until sometime in 2006 after the audit.

The Commissioner started an audit of the 2003 return in April 2005, and was displeased at Joseph's self-appraisal of such high-dollar properties. So the Mohameds hired Woodrow Stephen Bowman to perform an independent appraisal of the Rio Linda properties and the Calvine Road property, and hired Robert R. Keeling to appraise the Elk Grove shopping center. The independent appraisals were similar, but not identical, to Mohamed's own:

Property	Mohamed appraisal	Independent appraisal
Rio Linda 1	$296,348.00	$296,000
Rio Linda 2	325,000.00	315,000
Rio Linda 3	125,000.00	140,000
Rio Linda 4	264,040.00	220,000
Calvine Road	14,873,921.00	16,380,000
Shopping center	2,642,190.62	2,926,246
Total:	18,526,499.62	20,277,246

After the Mohameds transferred the properties, the Trust sold some of them in arm's-length deals. Rio Linda parcel 3 sold for $125,000 in May 2003. Rio Linda parcel 4 sold for $265,000 in October 2003. The shopping center sold in April 2004 for $2,280,000. And by the end of 2004 the Calvine Road property was sold in two pieces for a total price of nearly $23 million.

Despite the relative consistency between the appraisals and the ultimate sale prices, the Commissioner thought the Mohameds had overstated the values of the properties, and these cases seemed set to become valuation battles. But then the Commissioner realized that the Mohameds had made several mistakes in filing their Forms 8283 for 2003 and 2004, and amended his answer to assert that these mistakes compel denying the Mohameds any charitable deductions for their CRUT at all. He also moved for partial summary judgment in both cases to settle this issue.

[**Bottom line:** The Tax Court upheld the IRS's denial of a couple's charitable contribution deductions for property they donated to a charitable remainder unitrust, finding that appraisals by the husband, a real estate broker and appraiser, did not satisfy the regulatory requirement for them to obtain and attach a qualified appraisal.]

Judge Holmes parting words,

We recognize that this result is harsh--a complete denial of charitable deductions to a couple that did not overvalue, and may well have undervalued, their contributions--all reported on forms that even to the Court's eyes seemed likely to mislead someone who didn't read the instructions. But the problems of misvalued property are so great that Congress was quite specific about what the charitably inclined have to do to defend their deductions, and we cannot in a single sympathetic case undermine those rules.

CASE STUDY – CRAT for Dave and Millie

Dave and Millie had enjoyed a successful, profitable and blessed life. They had also gotten to the point where maintaining their lovely home on the Peninsula was just a bit more effort than they wanted to expend. They had found and qualified to enter a new age-based continuing care community within reasonable travel time for each of their children. The time was right for them to make big changes in their lives.

Dave had been a self-employed financial advisor for over 40 years, and he'd seen the crashes as well as the boom times. Now he wanted certainty in his own financial life planning. That's why he chose to place 40% of his personal residence into a Charitable Remainder Annuity Trust shortly before he sold the home. He wanted a predictable cash flow, and hopefully, funds that would be there for Millie and him for the rest of their lives.

REVIEW QUESTIONS

Under the NASBA-AICPA self-study standards, self-study sponsors are required to present review questions intermittently throughout each self-study course. Additionally, feedback must be given to the course participant in the form of answers to the review questions and the reason why answers are correct or incorrect.

To obtain the maximum benefit from this course, we recommend that you complete each of the following questions, and then compare your answers with the solutions that immediately follow. *These questions and related suggested solutions are not part of the final examination and will not be graded by the sponsor.*

1. Details of a charitable remainder annuity trust (CRAT) are described in which of the following?

    a) A CRAT pays a fixed annuity to charitable organizations only
    b) The period of the trust cannot exceed 25 years
    c) The value of the remainder trust must be a minimum of 10% of the initial net fair market value of all property contributed
    d) After the annuity ends, the remainder interest reverts back to the grantor

2. When assessing the benefits and/or disadvantages of charitable remainder trusts (CRTs), which of the following applies?

    a) A CRT must pay income tax
    b) The donor is allowed an income tax deduction in the year of the charitable gift for the fair market value of the remainder interest that will pass to charity but limited to 30% of their AGI
    c) A donor may set up a CRT and designate distributions to his or her future grandchildren
    d) The charitable beneficiary of a CRT must be identified and notified when the trust is established

3. Variations of the charitable remainder trust are accurately outlined in which choice below?

    a) With a net income charitable remainder unitrust, payments to the annuitant will be the greater of the trust income or the unitrust percentage
    b) A net income charitable remainder unitrust allows missed payments as a result of insufficient income to be made up when there is more income
    c) A FLIP CRUT is a CRUT in which the initial unitrust amount going to the recipient is the lesser of trust income or the fixed percentage, and after a “trigger” event, the unitrust amount changes to a fixed percentage
    d) Payments made from a net income makeup charitable remainder unitrust (NIMCRUT) cannot be more than the standard percentage amount

4. The process of creating a charitable remainder trust should include which of the following?
   a) The property should be appraised by a qualified appraiser close to the time of the contribution, but certainly within one year of the date the tax deduction is taken on the donor's individual income tax return
   b) The trust document must be drawn up by a qualified estate and trust attorney
   c) Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, must only be filed in the year of funding of the split interest trust
   d) The due date of the initial filing of Form 5227, Split-Interest Trust Information Return, is April 15 of the first tax year

5. In the case *Joseph Mohamed, Sr. and Shirley Mohamed, Petitioners v. Comm.*, what were the important details pertaining to the establishment of their CRUT?
   a) The Tax Court upheld the IRS's denial for a deduction for their charitable contribution of property because the taxpayers didn't follow the requirements to obtain and attach a qualified appraisal
   b) The Tax Court disagreed with the IRS, finding that the properties were undervalued and ultimately sold for more than their appraised value
   c) Joseph Mohamed used an independent appraiser for the donated properties
   d) Joseph Mohamed signed the Declaration of Appraiser on Form 8283, Noncash Charitable Contributions

SOLUTIONS TO REVIEW QUESTIONS

1. Details of a charitable remainder annuity trust (CRAT) are described in which of the following? **(Page 1)**
    a) Incorrect. The annuity is paid at least once a year to one or more recipients, of which one is not a charitable organization.
    b) Incorrect. The maximum number of years is 20.
    c) Correct. This is a is true no matter how the annuity is paid out – over a recipient's lifespan or over a stated number of years.
    d) Incorrect. The remainder interest goes to the charitable organization as described in 26 U.S. Code §170, or if qualified employer securities constitute the remainder interest, they are shifted to an employee stock ownership plan.
2. When assessing the benefits and/or disadvantages of charitable remainder trusts (CRTs), which of the following applies? **(Page 4)**
    a) Incorrect. The CRT pays no income tax and recognizes no gain on the sale of appreciated property.
    b) Correct. There is also a five-year carryforward period.
    c) Incorrect. Any beneficiary must be alive when the CRT is set up.
    d) Incorrect. The charitable beneficiary does not need to be notified and may not even be aware of the arrangement until they receive the final distribution check.
3. Variations of the charitable remainder trust are accurately outlined in which choice below? **(Page 5)**
    a) Incorrect. With a NICRUT, payments are the lesser of trust income or the unitrust percentage amount.
    b) Incorrect. This defines a NIMCRUT, net income makeup charitable remainder unitrust.
    c) Correct. The FLIP CRUT has three requirements: The change is triggered on a specific date or by an event not within the control of the trustee or another person; the flip occurs at the onset of the tax year immediately following the year when the trigger event occurred; and following the flip, the CRT becomes a fixed percentage CRT.
    d) Incorrect. Payments are limited to net income, but a makeup payment may include amounts from past payments, which will increase the payment in a given year.
4. The process of creating a charitable remainder trust should include which of the following? **(Page 7)**
    a) Incorrect. The date of the appraiser should not be later than the date of the deduction taken on the return.
    b) Incorrect. The IRS has sample forms and provides the necessary language for creating a CRAT.
    c) Incorrect. It is filed when additional gifts are made to the trust.
    d) Correct. A three-month extension is available, with an additional three months available for request after the first extension is granted.

5. In the case ***Joseph Mohamed, Sr. and Shirley Mohamed, Petitioners v. Comm.***, what were the important details pertaining to the establishment of their CRUT? **(Page 10)**

    a) Correct. This is true, although the taxpayer's appraisals were in line with those of an independent appraiser. However, the IRS ultimately denied the deductions because of mistakes on the taxpayer's Forms 8283, Noncash Charitable Contributions, for the 2003-2004 tax years.
    b) Incorrect. The Tax Court upheld the IRS's denial of deductions for the taxpayer's CRUT because Mr. Mohamed did not comply with the directions on the form that required them to attach a qualified appraisal to their form.
    c) Incorrect. The taxpayer was a certified real estate appraiser and used his own valuations; although he did bring in an independent appraiser as a consequence of an audit of his 2003 return.
    d) Incorrect. The taxpayer did not sign this section of the form because it required a declaration that he was "not the donor, the donee, or a party to the transaction," which would have been a false statement had he signed it.

A trust qualifies as a charitable remainder annuity trust if the following conditions are met:

- The trust pays a specified annuity to at least one non-charitable beneficiary who is living when the trust is created. Annuities can be paid annually, semiannually, quarterly, monthly, or weekly.
- The amount paid, as an annuity, must be at least 5%, but less than 50% of the initial net fair market value of the property placed in the trust. The charity's interest at inception also must be worth at least 10 percent of the value transferred to the trust.
- The annuity is payable each year for a specified number of years (no more than 20) or for the life or lives of the noncharitable beneficiaries.
- No annuity is paid to anyone other than the specified noncharitable beneficiary and a qualified charitable organization.
- When the specified term ends, the remainder interest is transferred to a qualified charity or is retained by the trust for the use of the qualified charity.

The Internal Revenue Service has also ruled that a trust is not a charitable remainder annuity trust if there is a greater than 5% chance that the trust fund will be exhausted before the trust ends.

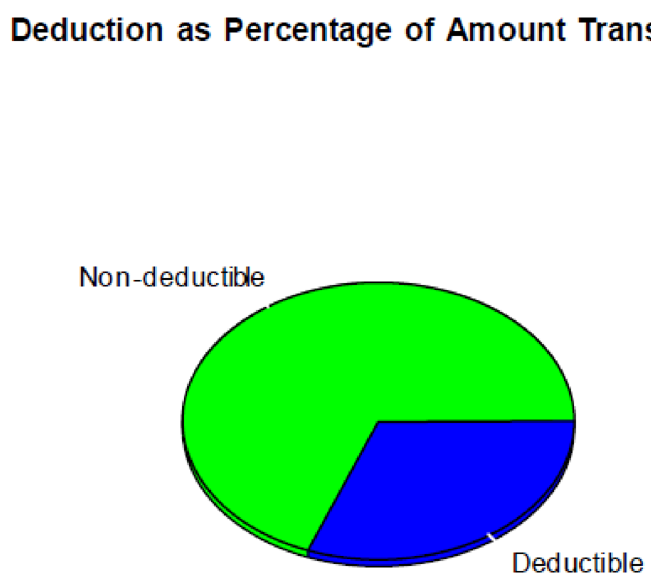
The following exhibit is created using NumberCruncher by 2018 software by Steve Leimberg (Leimberg & LeClair, Inc.
http://www.leimberg.com/products/software/numbercruncher.html

Charitable Remainder Annuity Trust — 5/24/2019

Trust Type:	Life
Transfer Date:	5/2019
§7520 Rate:	3.20%
FMV of Trust:	$2,788,000
Growth of Trust:	6.00%
Percentage Payout:	7.000%
Payment Period:	Annual
Payment Timing:	End
Lives:	2
Ages:	79, 78
Exhaustion Method:	Illustrated

Rev. Rul. 77-374 Prob. Test: 8.95%, 20 yrs.; Char Ded. may be DISALLOWED

Amount of Annuity:	$195,160.00
Two Life Annuity Factor	9.8678
Payout Frequency Factor:	1.0000
Present Value of Annuity = Annuity Payout times Factors:	$1,925,799.85
Charitable Remainder = FMV of Trust less PV of Annuity:	$862,200.15
Charitable Deduction for Remainder Interest:	$862,200.15
Donor's Deduction as Percentage of Amount Transferred:	30.925%
Present Value of Succeeding Noncharitable Interests:	$488,901.96



Non-deductible – 69.07%

Deductible – 30.93%

Issue: Using current AFRs, the CRT will not pass the "Exhaustion Test"

Section 7520 Treasury Regulations Exhaustion Test	
Final Partial Payment Amount:	$77,776.50
Value of $117,383.50 for 19.00 Years:	$1,138,608.21
Value of $77,776.50 for 20.00 Years:	$758,803.09
Value of Annuity Interest:	$1,897,411.30
Charitable Deduction for Remainder Interest:	$890,588.70
§7520 Regs Increase in Char. Deduction:	$28,388.55

The Exhaustion Test: For charitable remainder annuity trusts, the CRAT must also meet the "not-so-remote-as-to-be-negligible-5%-probability" test of Rev. Rul. 77-374. That ruling provides that a charitable remainder annuity trust doesn't qualify for a charitable deduction (and by implication isn't a qualified trust) unless the possibility that the charitable transfer will not become effective is so remote as to be negligible. If there is more than a 5% probability that the noncharitable income beneficiary will survive the exhaustion of the trust assets, that probability isn't negligible.

Rev. Proc. 2016-42, IRB 2016-34. IRS Relaxes Rules for Charitable Remainder Annuity Trusts

In issuing Revenue Procedure 2016-42, the Internal Revenue Service provides that a charitable remainder annuity trust, or CRAT, containing a sample provision from the Rev. Proc. will not be subject to a "probability of exhaustion" test. The sample provision can be included in the governing instrument of a CRAT providing for annuity payments that are payable for one or more measuring lives followed by the distribution of trust assets to one or more charitable "remaindermen."

The IRS will treat the sample provision as a qualified contingency within the meaning of Section 664(f) of the Tax Code. Including the sample provision in the trust instrument will not cause the trust to fail to qualify as a charitable remainder trust under Section 664, and any CRAT containing the sample provision will not be subject to the "probability of exhaustion" test.

The "probability of exhaustion" test helps determine whether a CRAT complies with a regulatory requirement that applies to all contingent charitable transfers assuring there is only a negligible chance the charity will receive no money.

The new IRS guidance that does away with the upfront requirement that the trust pass the 5% probability of exhaustion test. Instead, if sample language included in the guidance is used, once the value of the CRAT reaches the point where 10% of the trust assets remain, the trust will automatically terminate early and pay the remainder to the charity. This early termination provision will be treated as a qualified contingency under IRC Sec. 664(f) and will apply to trusts created on or after 8/8/16.

Section 7520 Treasury Regulations Exhaustion Test

Final Partial Payment Amount:	$77,776.50
Value of $117,383.50 for 19.00 Years:	$1,138,608.21
Value of $77,776.50 for 20.00 Years:	$758,803.09
Value of Annuity Interest:	$1,897,411.30
Charitable Deduction for Remainder Interest:	$890,588.70
§7520 Regs Increase in Char. Deduction:	$28,388.55

Charitable Remainder Annuity Trust 5/24/2019

Section 7520 Treasury Regulations Exhaustion Illustrated

Year	Balance	Growth	Payment
1	$2,788,000.00	$89,216.00	$195,160.00
2	$2,682,056.00	$85,825.79	$195,160.00
3	$2,572,721.79	$82,327.10	$195,160.00
4	$2,459,888.89	$78,716.44	$195,160.00
5	$2,343,445.33	$74,990.25	$195,160.00
6	$2,223,275.58	$71,144.82	$195,160.00
7	$2,099,260.40	$67,176.33	$195,160.00
8	$1,971,276.73	$63,080.86	$195,160.00
9	$1,839,197.59	$58,854.32	$195,160.00
10	$1,702,891.91	$54,492.54	$195,160.00
11	$1,562,224.45	$49,991.18	$195,160.00
12	$1,417,055.63	$45,345.78	$195,160.00
13	$1,267,241.41	$40,551.73	$195,160.00
14	$1,112,633.14	$35,604.26	$195,160.00
15	$953,077.40	$30,498.48	$195,160.00
16	$788,415.88	$25,229.31	$195,160.00
17	$618,485.19	$19,791.53	$195,160.00
18	$443,116.72	$14,179.74	$195,160.00
19	$262,136.46	$8,388.37	$195,160.00
20	$75,364.83	$2,411.67	$77,776.50

Alternative Payout Rate:

Charitable Remainder Annuity Trust 5/24/2019

Trust Type:	Life
Transfer Date:	5/2019
§7520 Rate:	3.20%
FMV of Trust:	$2,788,000
Growth of Trust:	6.00%
Percentage Payout:	6.000%
Payment Period:	Annual
Payment Timing:	End
Lives:	2
Ages:	79, 78
Exhaustion Method:	Illustrated

Rev. Rul. 77-374 Prob. Test: 1.18%, 25 yrs.; Char Ded. is ALLOWABLE

Amount of Annuity:	$167,280.00
Two Life Annuity Factor	9.8678
Payout Frequency Factor:	1.0000
Present Value of Annuity = Annuity Payout times Factors:	$1,650,685.58
Charitable Remainder = FMV of Trust less PV of Annuity:	$1,137,314.42
Charitable Deduction for Remainder Interest:	$1,137,314.42
Donor's Deduction as Percentage of Amount Transferred:	40.793%
Present Value of Succeeding Noncharitable Interests:	$431,524.40

In this scenario the non-deductible portion becomes 59.21%; Deductible is 40.79%

CASE STUDY – CRUT for Jon & Jessie

Jonathan and Jessica had met in graduate school where they set their sights on joining cutting edge high-tech companies in Silicon Valley. They both managed to find employers that offered pre-IPO stock options and lots of opportunity to demonstrate their personal skills. They were a little late starting a family, but by the time they were fifty they had amassed wealth such that they really did not need to be employed for the rest of their lives.

A charitable remainder unitrust offered a way to custom-make a retirement-like distribution that should last the length of their joint lives as well as provide a charitable contribution deduction in the current year to help offset some of the large income they were anticipating during the current year from sale of stock options.

The following computations and analysis is generated by NumberCruncher 2018.00 software[17].

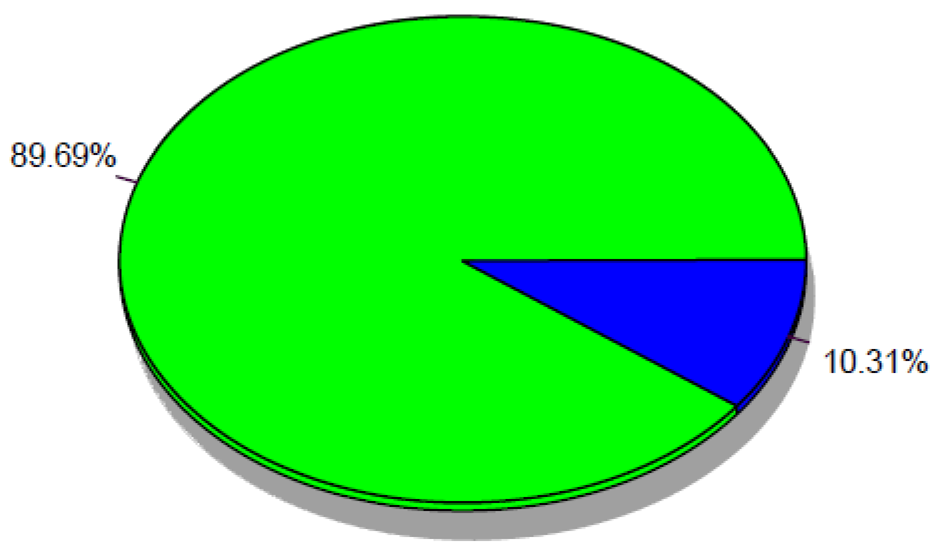
[17] **NumberCruncher** is Steve Leimberg's authoritative estate planning decision-maker and "electronic survival tool". It is the essential "instant answers" solution for estate, business, and financial planners. **Leimberg & LeClair, Inc.** Havertown, PA 19083 Phone: (610) 924-0515 http://www.leimberg.com/contact/index.html

Charitable Remainder Unitrust 5/24/2019

Trust Type:	Life
Transfer Date:	5/2019
§7520 Rate:	3.20%
FMV of Trust:	$3,000,000
Growth Rate:	3.00%
Income Rate:	5.00%
Percentage Payout:	7.000%
Payment Period:	Quarterly
Months Val. Precedes Payout:	1
Lives:	2
Ages:	53, 51
CRUT Type:	Normal

Payout Sequence Factor:	0.985705
Adjusted Payout Rate:	6.900%
Interpolation:	
Factor at 6.8%:	0.10631
Factor at 7.0%:	0.09992
Difference:	0.00639
(6.900% - 6.8%) / 0.2% = X / 0.00639; Therefore X = 0.00320	
Life Remainder Factor = Factor at 6.8% Less X:	0.10311
Present Value of Remainder Interest = $3,000,000.00 x 0.10311:	$309,330.00
Donor's Deduction:	$309,330.00
Donor's Deduction as Percentage of Amount Transferred:	10.311%
Present Value of Succeeding Noncharitable Interests:	$281,790.00

Deduction as Percentage of Amount Transferred



This calculation determines the deduction for a contribution to a charitable remainder unitrust. It also calculates the deduction as a percentage of the amount transferred. When a charitable remainder unitrust is established, a donor transfers cash and/or property to an irrevocable trust but retains (either for himself or for one or more non-charitable beneficiaries) a variable annuity (payments that can vary in amount, but are a fixed percentage) from that trust. At the end of a specified term, or upon the death of the beneficiary (or beneficiaries, and the donor and the donor's spouse can be the beneficiaries), the remainder interest in the property passes to the charity the donor has specified.

The principal difference between a charitable remainder unitrust and a charitable remainder annuity trust is that a unitrust pays a varying annuity. In other words, the amount paid is likely to change each year. The payable amount is based on annual fluctuations in the value of the trust's property. As it goes up, so does the annuity paid each year. If it drops in value, so will the annuity.

A gift to a charitable remainder unitrust will qualify for income and gift tax charitable deductions (or an estate tax charitable deduction) only if the following conditions are met:

- A fixed percentage (not less than 5% nor more than 50%) of the net fair market value of the assets is paid to one or more non-charitable beneficiaries who are living when the unitrust is established. The charity's actuarial interest must be at least 10% of any assets transferred to the trust.
- The unitrust assets must be revalued each year, and the fixed percentage amount must be paid at least once a year for the term of the trust, which must be a fixed period of 20 years or less, or must be until the death of the noncharitable beneficiaries, all of whom must be living at the beginning of the trust.
- No sum can be paid except the fixed percentage during the term of the trust and at the end of the term of the trust, the entire balance of the trust's assets must be paid to one or more qualified charities.

The donor receives an immediate income tax deduction for the present value of the remainder interest that will pass to the charity at the end of the term.

Because a charitable remainder unitrust is exempt from federal income tax (the income and gains of the trust are only taxed when they are distributed to the noncharitable beneficiaries as part of the fixed percentage of trust assets distributed each year), they are frequently used to defer income tax on gains about to be realized. For example, if a donor has an appreciated asset that is about to be sold, the donor can give the asset to a charitable remainder unitrust, reserving the right to receive a fixed percentage of the value of the trust for life, and for the life of the donor's spouse as well, and the asset can then be sold by the trust and the proceeds of sale reinvested without payment of any federal income tax on capital gains. The capital gains will be taxable to the donor (or the donor's spouse) only as they are distributed to the donor as part of the annual distributions from the trust.

Periodic Payment Methods

The following are other acceptable periodic payment methods, referred to as *income exception methods*, which will not prevent a trust from qualifying as a CRUT:

- a. Lesser of trust accounting income or fixed percentage without make-up (NI-CRUT).
- b. Lesser of trust accounting income or fixed percentage with make-up (NIM-CRUT).
- c. Conversion from income exception method (item a. or b.) to fixed percentage (FLIP-CRUT).

These variations of CRUTs have formula payments that alter the fixed percentage of the value of the trust assets payment scheme based on level of income. The net-income-with-makeup CRUT, or "NIMCRUT," pays either the fixed percentage or the income actually received by the trust, whichever is less. However, if the income is less than the fixed percentage, the deficiency can be paid in a future year, as soon as the trust has income, which exceeds the fixed percentage. An additional variation is a "flip" unitrust, which is a trust that changes from a NIMCRUT to a regular CRUT upon the occurrence of a specific event, such as the sale of a specific asset that was contributed to the trust and was not expected to produce much income. However, both NIMCRUTs and "flip" CRUTs are valued in the same way as a regular CRUT for the purpose of determining the income, estate, and gift tax charitable deduction.

The FLIP-CRUT is beneficial when assets used to fund the CRUT are illiquid and produce little or no current income (e.g., raw land)[18]. The donor may want the noncharitable income or beneficiary(ies) of the CRUT to receive a steady stream of payments based on the total return available from the assets' value. The donor recognizes, however, that the CRUT cannot make these payments until it converts the unmarketable assets into liquid assets that can be used to pay the fixed percentage amount.

[18] Choosing the Type of CRT from Charitable Giving Strategies (PPC)

Continuing our CRUT for Jon & Jessie
Analysis of both income and distributions over time

Charitable Remainder Unitrust 5/24/201

Year	Beginning Principal	Principal Growth	Income Rec'd/Accr'd	Distribution	Remainder
1	$3,000,000.00	$86,587.50	$146,506.50	$210,000.00	$3,023,094.00
2	$3,023,094.00	$87,254.04	$147,634.30	$211,616.60	$3,046,365.74
3	$3,046,365.74	$87,925.74	$148,770.80	$213,245.60	$3,069,816.68
4	$3,069,816.68	$88,602.59	$149,916.03	$214,887.16	$3,093,448.14
5	$3,093,448.14	$89,284.64	$151,070.09	$216,541.36	$3,117,261.51
6	$3,117,261.51	$89,971.96	$152,233.02	$218,208.32	$3,141,258.17
7	$3,141,258.17	$90,664.58	$153,404.91	$219,888.08	$3,165,439.58
8	$3,165,439.58	$91,362.50	$154,585.82	$221,580.76	$3,189,807.14
9	$3,189,807.14	$92,065.81	$155,775.82	$223,286.52	$3,214,362.25
10	$3,214,362.25	$92,774.54	$156,974.99	$225,005.36	$3,239,106.42
11	$3,239,106.42	$93,488.71	$158,183.38	$226,737.44	$3,264,041.07
12	$3,264,041.07	$94,208.38	$159,401.08	$228,482.88	$3,289,167.65
13	$3,289,167.65	$94,933.61	$160,628.14	$230,241.76	$3,314,487.64
14	$3,314,487.64	$95,664.40	$161,864.67	$232,014.12	$3,340,002.59
15	$3,340,002.59	$96,400.82	$163,110.69	$233,800.20	$3,365,713.90
16	$3,365,713.90	$97,142.90	$164,366.32	$235,599.96	$3,391,623.16
17	$3,391,623.16	$97,890.73	$165,631.62	$237,413.64	$3,417,731.87
18	$3,417,731.87	$98,644.29	$166,906.65	$239,241.24	$3,444,041.57
19	$3,444,041.57	$99,403.66	$168,191.49	$241,082.92	$3,470,553.80
20	$3,470,553.80	$100,168.86	$169,486.23	$242,938.76	$3,497,270.13
21	$3,497,270.13	$100,939.95	$170,790.93	$244,808.92	$3,524,192.09
22	$3,524,192.09	$101,716.98	$172,105.68	$246,693.44	$3,551,321.31
23	$3,551,321.31	$102,500.02	$173,430.55	$248,592.48	$3,578,659.40
24	$3,578,659.40	$103,289.05	$174,765.62	$250,506.16	$3,606,207.91
25	$3,606,207.91	$104,084.18	$176,110.97	$252,434.56	$3,633,968.50
26	$3,633,968.50	$104,885.41	$177,466.66	$254,377.80	$3,661,942.77
27	$3,661,942.77	$105,692.82	$178,832.80	$256,336.00	$3,690,132.39
28	$3,690,132.39	$106,506.46	$180,209.45	$258,309.28	$3,718,539.02
29	$3,718,539.02	$107,326.33	$181,596.71	$260,297.72	$3,747,164.34
30	$3,747,164.34	$108,152.54	$182,994.63	$262,301.52	$3,776,009.99
31	$3,776,009.99	$108,985.08	$184,403.34	$264,320.72	$3,805,077.69
32	$3,805,077.69	$109,824.06	$185,822.88	$266,355.44	$3,834,369.19
33	$3,834,369.19	$110,669.48	$187,253.34	$268,405.84	$3,863,886.17
34	$3,863,886.17	$111,521.42	$188,694.80	$270,472.04	$3,893,630.35
Summary:		$3,350,534.04	$5,669,120.91	$8,126,024.60	$3,893,630.35

CASE STUDY – Eric Took Early Retirement in 1995

This CRUT has been operating over a decade, providing benefits for the grantor well in excess of the original contribution.

Eric's original contribution was made as a way of creating early retirement income and immediate diversification of the concentrated position he held in a company he had been fortunate to work at early in his career. He placed the major portion of the initial shares under conservative financial management. He continued to hold some of the original shares, selling them off as needed annually to fund the quarterly distributions.

During the lifetime of the CRUT, the amount and character of undistributed income and capital gains must be maintained in order to assure the proper tax treatment to the beneficiary of distributions they receive. The current year accumulated undistributed income within this 23 year-old trust is shown below:

ERIC'S CRUT - 2018 ACCUMULATION & DISTRIBUTIONS SCHEDULE

CHARITABLE REMAINDER TRUST ORDINARY INCOME DISTRIBUTION WORKSHEET

	ALL OTHER ORD INCOME		QUALIFIED DIVIDENDS		
	EXCLUDED	ACCUM. NII	EXCLUDED	ACCUM. NII	TOTAL
1. PRIOR YEAR'S UNDISTRIBUTED ORD INC OR (LOSS)	0.	0.	0.	0.	0.
2. CURRENT YEAR ORDINARY INCOME OR (LOSS)	0.	7,277.	0.	69,338.	76,615.
DEDUCTIONS ALLOCABLE	0.	-395.	0.	-3,760.	-4,155.
3. TOTAL COMBINED ORD INC OR (LOSS) BY CLASS	0.	6,882.	0.	65,578.	72,460.
4. ADJUSTMENTS FOR NETTING ANY ORD (LOSSES)	0.	0.	0.	0.	0.
5. TOTAL UNDISTRIBUTED ORDINARY INCOME	0.	6,882.	0.	65,578.	72,460.
6. CARRYFORWARD TO 2019	0.	0.	0.	0.	0.

CHARITABLE REMAINDER TRUST CAPITAL GAIN (LOSS)

	SHORT-TERM		28% LT CAP GN.		SEC 1250 LT CAP GN		ALL OTHER LT CAP GN		LT CAP GN.
	EXCLUDED	ACCUM NII	EXCLUDED	ACCUM NII	EXCLUDED	ACCUM NII	EXCLUDED	ACCUM NII	TOTAL
CURRENT YEAR	0.	-107,217.	0.	0.	0.	0.	0.	157,963.	157,963.
DEDUCTIONS ALLOCABLE	0.	0.	0.	0.	0.	0.	0.	0.	0.
UNDISTRIBUTED FROM PY	0.	0.	0.	0.	0.	0.	1,155,808.	2,409,584.	3,565,392.
SUBTOTAL	0.	-107,217.	0.	0.	0.	0.	1,155,808.	2,567,547.	3,723,355.
LT LOSSES OFFSET VS. GAINS	0.	0.	0.	0.	0.	0.	0.	0.	0.
SUBTOTAL	0.	-107,217.	0.	0.	0.	0.	1,155,808.	2,567,547.	3,723,355.
ACCUMULATED ST LOSSES	0.	107,217.	0.	0.	0.	0.	0.	-107,217.	-107,217.
ACCUMULATED ST GAINS	0.	0.	0.	0.	0.	0.	0.	0.	0.
TOTAL DISTRIBUTABLE	0.	0.	0.	0.	0.	0.	1,155,808.	2,460,330.	3,616,138.
TOTAL DISTRIBUTED	0.	0.	0.	0.	0.	0.	0.	292,456.	292,456.
UNDISTRIBUTED AT YEAR END	0.	0.	0.	0.	0.	0.	1,155,808.	2,167,874.	3,323,682.

In 2015 he heard rumors that his old company was a likely take-over target from a larger electronics firm. If that happened he would be forced to immediately recognize over $40,000,000 in long-term capital gains. He chose to make an additional contribution to the CRUT during 2016.

The worksheet that follows reflects the actual performance of this CRUT from date of creation through the end of 2018.

ERIC'S CRUT HISTORY – INCEPTION TO 2018

THIS TRUST WAS ORIGINALLY FUNDED ON 06/13/95 WITH THE TRANSFER OF 40,000 SHS OF ALTERA CORP COMMON STOCK. THE FAIR MARKET VALUE AT THAT TIME WAS $1,615,000. (STOCK VALUED AT $40.375 PER SHARE) THE BASIS OF THAT STOCK WAS .0011 PER SHARE ($45).

THE TRUST REQUIRES THAT 8% OF THE NET FAIR MARKET VALUE BE PAID OUT ANNUALLY. DISTRIBUTIONS ARE BASED ON THE FAIR MARKET VALUE OF THE TRUST ON JANUARY FIRST, AND ARE PAID IN QUARTERLY INSTALLMENTS ON THE LAST DAY OF EACH QUARTER OF THE CALENDAR YEAR.

	VALUATION	BENEFICIARY'S DISTRIBUTION	
06/13/95 FOR 1995	$1,615,666	$ 74,324	
12/31/95 FOR 1996	2,019,176	161,534	$40,383.52/Q
12/31/96 FOR 1997	2,570,560	205,644.80	51,411.20/Q
12/31/97 FOR 1998	2,977,785	238,222.80	59,555.70/Q
12/31/98 FOR 1999	3,583,885	286,710.80	71,677.70/Q
12/31/99 FOR 2000	4,527,478	362,198.24	90,549.53/Q
12/31/00 FOR 2001	4,271,862	341,748.96	85,437.24/Q
12/31/01 FOR 2002	3,104,168	248,333.41	62,083.35/Q
12/31/02 FOR 2003	$2,095,917	$167,673.36	$41,918.34/Q
12/31/03 FOR 2004	$2,765,181	$221,214.48	$55,303.62/Q
12/31/04 FOR 2005	$2,806,520	$224,521.60	$56,130.40/Q
12/31/05 FOR 2006	$2,771,877	$221,750.16	$55,437.54/Q
12/31/06 FOR 2007	$2,862,122	$228,969.76	$57,242.44/Q
12/31/07 FOR 2008	$2,835,372	$226,829.76	$56,707.44/Q
12/31/08 FOR 2009	$1,740,653	$139,252.24	$34,813.06/Q
12/31/09 FOR 2010	$1,901,135	$152,090.80	$38,022.70/Q
12/31/10 FOR 2011	$2,206,143	$176,491.44	$44,122.86/Q
12/31/11 FOR 2012	$2,017,590	$161,407.20	$40,351.80/Q
12/31/12 FOR 2013	$1,967,060	$157,365.81	$39,341.20/Q
12/31/13 FOR 2014	$2,062,595	$165,007.60	$41,251.90/Q
12/31/14 FOR 2015	$2,023,713	$161,897.07	$40,474.27/Q
DURING THE YEAR AN ADDITIONAL CONTRIBUTION OF ALTERA SECURITIES WAS ADDED TO THIS ACCOUNT			
12/31/15 FOR 2016	$4,223,794	$337,903.52	$84,475.88/Q
12/31/16 FOR 2017	$4,101,970	$328,157.64	$82,039.41/Q
12/31/17 FOR 2018	$4,561,452	$364,916.15	$91,229.04/Q
12/31/18 FOR 2019	$3,785,476	$302,838.08	$75,709.52/Q

WHAT HAPPENS WHEN THE TRUST BENEFICIARY DIES?

Section 2036 (Transfers with retained life estate) and Charitable Trusts

If a decedent transfers property to a charitable remainder trust and retains a life annuity or unitrust interest, the value of the interest must be included in his or her estate under IRC Sec. 2036. However, because the decedent only retained a right to a portion of the property transferred, the amount included in the gross estate under IRC Sec. 2036 is the proportionate amount of trust principal. The portion of the charitable remainder annuity trust (CRAT) includable in the decedent/grantor's gross estate is the portion of the trust necessary to yield the annuity payment. The amount included in the gross estate should not, however, exceed the value of the trust assets [Reg. 20.2036-1(c)].

The portion of a charitable remainder unitrust (CRUT) includable in the gross estate is that portion of the trust property value necessary to yield the unitrust adjusted payout rate where assets are presumed to produce income at the Section 7520 rate at the decedent/grantor's date of death [Reg. 20.2036-1(c)(2)(iv), Example 3]. The amount includable in the gross estate equals the unitrust assets' date of death value multiplied by the equivalent income interest rate divided by the Section 7520 rate. The formula for determining the equivalent income interest rate is:

UNITRUST ADJUSTED PAYOUT RATE DIVIDED BY (1-UNITRUST ADJUSTED PAYOUT RATE)

If the charitable remainder trust has additional individual beneficiaries surviving the decedent, the entire value of the annuity is included in the estate and the charitable deduction is limited to the present value of the remainder interest.

TESTAMENTARY GIFTS OF RETIREMENT PLAN ASSETS TO CRTs

A decedent's estate is allowed an estate tax charitable deduction for the present value of the remainder interest in a charitable remainder unitrust (CRUT) [IRC Sec. 2055(e)(2)(A)]. The amount of this deduction varies depending on the payout rate and term of the trust. Unlike a CRUT, where the value of the remainder interest is calculated from various present value tables, the value of a remainder interest in a charitable remainder annuity trust (CRAT) is determined by subtracting the value of the annuity stream received by the income beneficiary from the value of the property contributed. The value of the annuity is determined in accordance with the rules for determining the present value of an annuity under Reg. 20.2031-7(d) [Reg. 1.664-2(c)].

All qualified retirment plans, including IRAs, 401(k)s and 403(b)s can be used to make tax efficient charitable gifts at the owner's death. Designating these type of funds for a CRT or CRUT will become especially attractive if Congress is successful in eliminating the Stretch IRA[19].

Consider a $1,000,000 IRA in the context of a taxable estate and a law that would require complete distribution of the IRA to beneficiaries within five years. Here's what that same $1,000,000 could look like if placed in a 20-year CRT at the plan holder's death. First, although the $1,000,000 would be considered an asset of the estate, a charitable donation for the amount of the computed remainder interest would be available as an estate tax deduction. Second, for the 20 year term, the decedent could

[19] In April, 2019 The House Ways and Means Committee passed the Secure Act with a stated objective of helping workers save for retirement. A provision in the bill would force the distribution of a retirement account within 10 years for most nonspouse beneficiaries, which could throw cold water on a tax-savings strategy known as the "stretch IRA." The Senate version of the bill would distribute the account in five years if the beneficiary is not a spouse and if the account value exceeds $400,000 as of the date of death. Exceptions are made for spousal beneficiaries.

be assured that his designated beneficiary would receive consistent annual income and not have the ability to spend through the inheritance in a short period of time.

Charitable Remainder Annuity Trust 8/19/2019

Trust Type:	Term
Transfer Date:	8/2019
§7520 Rate:	2.80%
FMV of Trust:	$1,000,000
Growth of Trust:	5.00%
Percentage Payout:	5.610%
Payment Period:	Annual
Payment Timing:	End
Term:	20
Total Number of Payments:	20
Exhaustion Method:	IRS

Amount of Annuity:	$56,100.00
Annuity Factor:	15.1563
Payout Frequency Factor:	1.0000
Present Value of Annuity = Annual Payout times Factors:	$850,268.43
Charitable Remainder = FMV of Trust less PV of Annuity:	$149,731.57
Charitable Deduction for Remainder Interest:	$149,731.57
Donor's Deduction as Percentage of Amount Transferred:	14.973%

Charitable Remainder Annuity Trust 8/19/2019

Year	Beginning Principal	5.00% Growth	Payment	Remainder
1	$1,000,000.00	$50,000.00	$56,100.00	$993,900.00
2	$993,900.00	$49,695.00	$56,100.00	$987,495.00
3	$987,495.00	$49,374.75	$56,100.00	$980,769.75
4	$980,769.75	$49,038.49	$56,100.00	$973,708.24
5	$973,708.24	$48,685.41	$56,100.00	$966,293.65
6	$966,293.65	$48,314.68	$56,100.00	$958,508.33
7	$958,508.33	$47,925.42	$56,100.00	$950,333.75
8	$950,333.75	$47,516.69	$56,100.00	$941,750.44
9	$941,750.44	$47,087.52	$56,100.00	$932,737.96
10	$932,737.96	$46,636.90	$56,100.00	$923,274.86
11	$923,274.86	$46,163.74	$56,100.00	$913,338.60
12	$913,338.60	$45,666.93	$56,100.00	$902,905.53
13	$902,905.53	$45,145.28	$56,100.00	$891,950.81
14	$891,950.81	$44,597.54	$56,100.00	$880,448.35
15	$880,448.35	$44,022.42	$56,100.00	$868,370.77
16	$868,370.77	$43,418.54	$56,100.00	$855,689.31
17	$855,689.31	$42,784.47	$56,100.00	$842,373.78
18	$842,373.78	$42,118.69	$56,100.00	$828,392.47
19	$828,392.47	$41,419.62	$56,100.00	$813,712.09
20	$813,712.09	$40,685.60	$56,100.00	$798,297.69
Summary:	$1,000,000.00	$920,297.69	$1,122,000.00	$798,297.69

In a series of positive private letter rulings, starting with PLR 9237020 and PLR 9253038, the IRS has indicated that such a transfer would not trigger federal income tax on the entire balance. Rather, this income tax is applied only as this income is distributed to the income beneficiaries of the charitable remainder trust according to the usual four-tier system[20].

[20] An interesting article on this topic can be found at https://www.pgcalc.com; Testamentary Gifts of Retirement Assets by Bill Laskin (03/13/2018).

CHARITABLE REMAINDER TRUSTS[21] ARE DIFFERENT THAN "REGULAR TRUSTS."

- Charitable remainder trusts (CRTs), also known as split-interest trusts and "section 664 trusts", make distributions to both charitable and noncharitable beneficiaries, while providing tax benefits to their donor.

- Split-interest trusts must annually file **Form 5227**, *Split-Interest Trust Information Return*, (not Form 1041) to report financial activity and determine if they should be treated as a private foundation.

- Report the income (both current and cumulative undistributed income) of the trust for purposes of determining the character of distributions in three categories:
  - Ordinary income,
  - Capital gains and losses, and
  - Nontaxable income.

  A loss in any one of the three categories may not be used to reduce a gain in any other category. For example, a capital loss may not be used to reduce ordinary income. However, a loss in any one category may be used to reduce undistributed gain for earlier years within that same category, and any excess may be carried forward to reduce gain in future years within that same category.

- A CRT must complete a balance sheet annually

  The balance sheet is completed using the accounting method the trust uses in keeping its books and records. All charitable remainder unitrusts must complete columns (a), (b) and (c). In computing the net FMV of the unitrust's assets, take into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the trust. The net FMV of the trust's assets may be determined on any one date during the tax year of the trust, or by taking the average of valuations made on more than one date during the tax year of the trust, as long as the same valuation date or dates and valuation methods are used each year. See Regulations section 1.664-3.

  To figure the annuity amount (line 61b) or the unitrust amount (line 68) for short tax years, multiply the annuity or unitrust amount by the number of days in the trust's tax year, and then divide the result by 365 (or 366 for leap years).

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[21] Instructions to Form 5227
https://www.irs.gov/instructions/i5227/ch01.html?_ga=1.232043031.927185517.1423603132

- **Inclusion of Amounts in Recipients' Income**

  If there are two or more recipients, each will be treated as receiving his or her pro rata share of the various classes of income or corpus.

  Amounts distributed by a charitable remainder annuity trust or a charitable remainder unitrust have the following characteristics in the hands of the recipients:

  - **First**, as ordinary income to the extent of ordinary income for the current year and undistributed ordinary income for prior years of the trust. Ordinary income is computed without regard to any net operating loss deductions under section 172.

    - **Ordering Rules for Ordinary Income.** Ordinary income is composed of two classes for purposes of characterizing and ordering distributions: (a) qualified dividends, and (b) all other ordinary income. If the trust has both classes of ordinary income, distributions are treated as made first from all the other ordinary income class, and second from the qualified dividends class. Within qualified dividends are those subject to NII rules (23.8% rate) and those that are excluded (20% rate).

  - **Second,** as capital gains to the extent of the trust's undistributed capital gains. Undistributed capital gains of the trust are determined on a cumulative net basis without regard to any capital loss carrybacks and carryovers.

    - **Ordering Rules for Capital Gains Income**. Capital gains are composed of several classes for purposes of characterizing and ordering distributions. For example, the highest taxable income rate for short-term capital gains would be 39.6+3.88 (43.4%), followed by 39.6% for ordinary income that is excluded from NII income.
    - The following is a summary of the classes for long-term rates:
      - 28% long-term capital gain class (31.8%). This class consists of collectibles gains and losses and the taxable gain (but not more than the section 1202 exclusion) on the sale or exchange of qualified small business stock.
      - Section 1250 long-term capital gain class at 25% (28.8%),. This class consists of unrecaptured section 1250 gain (generally the part of real estate capital gain attributable to depreciation) on sales, exchanges, etc. of assets held more than 1 year. Undistributed, unrecaptured section 1250 gain on sales, exchanges, etc. after May 6, 1997, is included in this class.

    - All other long-term capital gain class, 15%, 20% (23.8%) gains. This class consists of all other gains or losses from sales, exchanges, and conversions (including installment payments received) of assets held more than 12 months.

- **Third**, as nontaxable income to the extent of the trust's nontaxable income for the current year and undistributed nontaxable income for prior years.

- **Fourth,** as a distribution of trust corpus. For this purpose, trust corpus means the net FMV of the trust assets less the total undistributed income (but not loss) in each of the above categories.

- See IRS Instructions to Form 5227 for greater detail and explanation of this tiered structure.

Ordering Rules for Ordinary Income

Section 664 Method		SNIIC Election Method
1. Distributions of all other ordinary income:		
	First, ordinary income that is NII (40.8% rate), then	All ordinary income class
	Ordinary income that is Excluded Income (37% rate)	
2. Distributions from the qualified dividend class:		
	First, qualified dividends that are NII (23.8% rate), then	All qualified dividends
	Qualified dividends that are Excluded Income (20% rate)	

Simplified Net Investment Income Calculation Election (SNIIC Election) for Section 664 trusts.

Starting in 2015, CRTs may make an election to calculate receipts and distributions of NII using a simplified method that is independent of the section 664 category and class system. Once made, the SNIIC election is irrevocable. If a CRT makes the SNIIC election, the CRT computes the NII in the same manner as an individual. When using the SNIIC, a CRT's accumulated NII is a separate and independent tracking system within the CRT and is not assigned, combined, or taken into account in any of the CRT's existing categories.

The SNIIC election will change the netting and ordering rules for ordinary income and capital gains or losses.   For more information, see Instructions to Form 5227.

Ordinary Income Distribution Worksheet (*KEEP FOR YOUR RECORDS*)

Use this worksheet to determine the ordering of any ordinary income distributions.					
		All other ordinary income		Qualified dividends	
		Excluded	Accumulated NII post 2012	Excluded	Accumulated NII post 2012
1.	Prior years undistributed ordinary income or (loss)				
2.	Current year ordinary income or (loss)				
3.	Total combined ordinary income or (loss) by class				
4.	Adjustments for netting any ordinary (losses) on line 3				
5.	Total undistributed ordinary income				
6.	2018 distributions...				
7.	Carryforward to 2019 (line 5 less line 6)				

Capital Gains Distribution Worksheet (*KEEP FOR YOUR RECORDS*)

Use this worksheet to determine the ordering of any capital gains distributions.									
		Short-term		**Long-term**					
		Excluded	**Accumulated Net Investment Income (ANII) post 2012**	**28% long-term capital gain class**		**Section 1250 long-term capital gain class**		**All other long-term capital gain classes**	
				Excluded	**ANII post 2012**	**Excluded**	**ANII post 2012**	**Excluded**	**ANII post 2012**
1.	**Prior years undistributed gain or (loss)**								
2.	**Current year net gain or (loss)**								
3.	**Total combined gain or (loss) by class**								
4.	**Adjustments for netting any long-term capital (losses) on line 3**								
5.	**Total**								
6.	**Adjustments for netting any short-term capital gain or (loss) on line 3 (see *Netting Rules* , earlier)**								
7.	**Total undistributed gains**								
8.	**2018 distributions...**								
9.	**Carryforward to 2019 (line 7 less line 8)...**								

Form **5227**

Department of the Treasury
Internal Revenue Service

Split-Interest Trust Information Return

► See separate instructions.
► Go to *www.irs.gov/Form5227* for instructions and the latest information.
► Do not enter social security numbers on this form (except on Schedule A) as it may be made public.

OMB No. 1545-0196

2018

Open to Public Inspection

For the calendar year 2018 or tax year beginning 1/01/2018 , 2018, and ending 12/31 , 20 18

EXAMPLE 1997 CHARITABLE TRUST
U/A 01/01/1997
MRS. MONEYPENNY
TRUSTEE
200 STRAWBERRY HILL ROAD
CUPERTINO, CA 95014

A Employer identification number: 77-0000000

B Type of Entity
- (1) ☐ Charitable lead trust
- (2) ☐ Charitable remainder annuity trust described in section 664(d)(1)
- (3) ☒ Charitable remainder unitrust described in section 664(d)(2)
- (4) ☐ Pooled income fund described in section 642(c)(5)
- (5) ☐ Other—Attach explanation

C Fair market value (FMV) of assets at end of tax year: 3,565,654.

D Gross Income: 157,368.

E Check applicable boxes (see the instructions): ☐ Initial return ☐ Final return ☐ Amended return
Change in trustee's ► ☐ Name ☐ Address

F Date the trust was created: 1/01/1997

G If the trust is a section 664 trust, did it have unrelated business taxable income? If "Yes," file Form 4720 ☐ Yes ☒ No

Part I Income and Deductions (All trusts complete Sections A through D)

Section A—Ordinary Income

1	Interest income	1	
2a	Ordinary dividends (including qualified dividends) SEE STATEMENT 1	2a	63,959.
b	Qualified dividends (see the instructions) SEE STATEMENT 2 — 2b 51,194.		
3	Business income or (loss). Attach Schedule C or C-EZ (Form 1040)	3	
4	Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040)	4	
5	Farm income or (loss). Attach Schedule F (Form 1040)	5	
6	Ordinary gain or (loss). Attach Form 4797	6	
7	Other income. List type and amount ►	7	
8	**Total ordinary income.** Combine lines 1, 2a, and 3 through 7 ►	8	63,959.

Section B—Capital Gains (Losses)

9	Total short-term capital gain or (loss). Attach Schedule D, Part I (Form 1041)	9	
10	Total long-term capital gain or (loss). Attach Schedule D, Part II (Form 1041)	10	93,409.
11	Unrecaptured section 1250 gain — 11		
12	28% gain — 12		
13	**Total capital gains (losses).** Combine lines 9 and 10 ►	13	93,409.

Section C—Nontaxable Income

14	Tax-exempt interest	14	
15	Other nontaxable income. List type and amount ►	15	
16	**Total nontaxable income.** Add lines 14 and 15 ►	16	

Section D—Deductions

17	Interest	17	
18	Taxes (see the instructions) SEE STATEMENT 3	18	1,224.
19	Trustee fees	19	
20	Attorney, accountant, and return preparer fees	20	1,000.
21	Other allowable deductions. Attach statement (see the instructions)	21	
22	**Total.** Add lines 17 through 21	22	2,224.
23	Charitable deduction — 23		

Section E—Deductions Allocable to Income Categories (Section 664 trust only)

24a	Enter the amount from line 22 allocable to ordinary income	24a	2,224.
b	Subtract line 24a from line 8	24b	61,735.
25a	Enter the amount from line 22 allocable to capital gains (losses)	25a	
b	Subtract line 25a from line 13	25b	93,409.
26a	Enter the amount from line 22 allocable to nontaxable income	26a	
b	Subtract line 26a from line 16	26b	0.

Form 5227 (2018) EXAMPLE 1997 CHARITABLE TRUST 77-0000000 Page **2**

Part II **Schedule of Distributable Income** (Section 664 trust only) See the instructions

Accumulations	(a) Ordinary income		(b) Capital gains (losses)		(c) Nontaxable income	
Net Investment Income (NII) Classification	Excluded Income	Accumulated NII post 2012	Excluded Income	Accumulated NII post 2012	Excluded Income	Accumulated NII post 2012
27 Undistributed income from prior tax years			1361608.			
28 Current tax year net income (before distributions): • In column (a), enter the amount from line 24b • In column (b), enter the amount from line 25b • In column (c), enter the amount from line 26b		61,735.		93,409.		
29 Total distributable income. Add lines 27 and 28		61,735.	1361608.	93,409.		

Part III-A **Distributions of Principal for Charitable Purposes**

30 Principal distributed in prior tax years for charitable purposes			**30**	
31 Principal distributed during the current tax year for charitable purposes. Fill in the information for columns (A), (B), and (C) and enter the amount distributed on the space to the right. (see the instructions)				
(A) Payee's name and address	(B) Date of distribution	(C) Charitable purpose and description of assets distributed		
a			**31a**	
b			**31b**	
c			**31c**	
32 **Total.** Add lines 30 through 31c			**32**	

Part III-B **Accumulated Income Set Aside and Income Distributions for Charitable Purposes**
Grantor type trusts complete only lines 35 and 36 (see the instructions)

33a Accumulated income set aside in prior tax years for which a deduction was claimed under section 642(c)			**33a**	
b Enter the amount shown on line 23			**33b**	
34 Add lines 33a and 33b			**34**	
35 Distributions made during the tax year (see the instructions): • For income set aside in prior tax years for which a deduction was claimed under section 642(c), • For charitable purposes for which a charitable deduction was claimed under section 642(c) in the current tax year, or • For charitable purposes by a grantor type trust for which a charitable deduction was claimed under section 170 upon contribution to the trust. Fill in the information for columns (A), (B), and (C) and enter the amount distributed on the line to the right.				
(A) Payee's name and address	(B) Date of distribution	(C) Charitable purpose and description of assets distributed		
a			**35a**	
b			**35b**	
c			**35c**	
36 Add lines 35a through 35c			**36**	
37 Carryover. Subtract line 36 from line 34			**37**	

Form **5227** (2018)

EXAMPLE 1997 CHARITABLE TRUST 77-0000000

Form 5227 (2018) Page **3**

Part IV Balance Sheet (see the instructions)

Assets			(a) Beginning-of-Year Book Value	(b) End-of-Year Book Value	(c) FMV (see the instructions)
38 Cash—non-interest-bearing		38			
39 Savings and temporary cash investments		39			
40a Accounts receivable	40a				
b Less: allowance for doubtful accounts	40b				
41 Receivables due from officers, directors, trustees, and other disqualified persons (attach statement)		41			
42a Other notes and loans receivable	42a				
b Less: allowance for doubtful accounts	42b				
43 Inventories for sale or use		43			
44 Prepaid expenses and deferred charges		44			
45a Investments—U.S. and state government obligations (attach statement)		45a			
b Investments—corporate stock. (attach statement) STATEMENT 4		45b	1,600,437.	2,498,086.	3,088,036.
c Investments—corporate bonds. (attach statement)		45c			
46a Investments—land, buildings, and equipment: basis (attach statement)	46a				
b Less: accumulated depreciation	46b				
47 Investments—other (attach statement)		47			
48a Land, buildings, and equipment: basis	48a				
b Less: accumulated depreciation	48b				
49 Other assets. Describe ► SEE STATEMENT 5		49			477,618.
50 **Total assets.** Add lines 38 through 49 (must equal line 60) ►		50	1,600,437.	2,498,086.	3,565,654.
Liabilities					
51 Accounts payable and accrued expenses		51			
52 Deferred revenue		52			
53 Loans from officers, directors, trustees, and other disqualified persons		53			
54 Mortgages and other notes payable. (attach statement)		54			
55 Other liabilities. Describe ►		55			
56 **Total liabilities.** Add lines 51 through 55 ►		56	0.	0.	0.
Net Assets					
57 Trust principal or corpus		57	238,829.	1,159,617.	
58a Undistributed income		58a			
b Undistributed capital gains		58b	1,361,608.	1,338,469.	
c Undistributed nontaxable income		58c			
59 **Total net assets.** Add lines 57 through 58c		59	1,600,437.	2,498,086.	
60 **Total liabilities and net assets.** Add lines 56 and 59		60	1,600,437.	2,498,086.	

Form **5227** (2018)

EXAMPLE 1997 CHARITABLE TRUST 77-0000000

Form 5227 (2018) Page **4**

Part V-A Charitable Remainder Annuity Trust (CRAT) Information (to be completed **only** by a Section 664 CRAT)

61a	Enter the initial fair market value (FMV) of the property placed in the trust	**61a**	
b	Enter the total annual annuity amounts for all recipients	**61b**	

Part V-B Charitable Remainder Unitrust (CRUT) Information (to be completed **only** by a Section 664 CRUT) See the instructions

62 Is the CRUT a net income charitable remainder unitrust (NICRUT) as described in Regulations section 1.664-3(a)(1)(i)(b)(1)? ☐ Yes ☒ No

63 Is the CRUT a net income with make-up charitable remainder unitrust (NIMCRUT) as described in Regulations section 1.664-3(a)(1)(i)(b)(2)? ☐ Yes ☒ No

64 Did the trust change its method of payment during the tax year? ☐ Yes ☒ No

If "Yes," describe the triggering event including the date of the event and the old method of payment ►

65a	Enter the unitrust fixed percentage to be paid to the recipients SEE STATEMENT 6	**65a**	5.0000 %
b	**Unitrust amount.** Subtract line 56, column (c), from line 50, column (c), and multiply the result by the percentage on line 65a. Do not enter less than -0-	**65b**	178,283.
	If the answer is "Yes" on line 62 or line 63, go to line 66a. Otherwise, skip lines 66a through 67b and enter the line 65b amount on line 68.		
66a	Trust's accounting income for 2018. Attach statement	**66a**	
	If the answer is "Yes" on line 62, go to line 66b. If the answer is 'Yes' on line 63, skip line 66b and go to line 67a.		
b	Enter the smaller of line 65b or line 66a here and on line 68. Skip lines 67a and 67b	**66b**	
67a	Total accumulated distribution deficiencies from previous years (see the instructions)	**67a**	
b	Add lines 65b and 67a	**67b**	
	If lines 67a and 67b are completed, enter the smaller of line 66a or line 67b on line 68.		
68	Required unitrust distribution for 2018	**68**	178,283.
69	Carryover of accumulated distribution deficiency (only for trusts that answered 'Yes' on line 63). Subtract line 68 from line 67b	**69**	
70	If this is the final return, enter the initial FMV of all assets placed in trust by the donor	**70**	

71 Did the trustee change the method of determining the FMV of the assets? ☐ Yes ☒ No
If "Yes," attach an explanation.

72 Were any additional contributions received by the trust during 2018? ☐ Yes ☒ No
If "Yes," be sure to complete all columns of line 7 in Schedule A, Part III.

Part VI-A Statements Regarding Activities (see the instructions)

			Yes	No
73	Are the requirements of section 508(e) satisfied either: ● By the language in the governing instrument; or ● By state legislation that effectively amends the governing instrument so that no mandatory directions that conflict with the state law remain in the governing instrument?	**73**	X	
74	Are you using this return only to report the income and assets of a segregated amount under section 4947(a)(2)(B)?	**74**		X

Form **5227** (2018)

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Form 5227 (2018) Page **5**

Part VI-B Statements Regarding Activities for Which Form 4720 May Be Required

File Form 4720 if any item is checked in the "Yes" column (to the right), unless an exception applies.				Yes	No
75 Self-dealing (section 4941):					
a During 2018, did the trust (either directly or indirectly):					
(1) Engage in the sale or exchange, or leasing of property with a disqualified person?	☐ Yes	☒ No			
(2) Borrow money from, lend money to, or otherwise extend credit to (or accept it from) a disqualified person?	☐ Yes	☒ No			
(3) Furnish goods, services, or facilities to (or accept them from) a disqualified person?	☐ Yes	☒ No			
(4) Pay compensation to, or pay or reimburse the expenses of, a disqualified person?	☐ Yes	☒ No			
(5) Transfer any income or assets to a disqualified person (or make any of either available for the benefit or use of a disqualified person)?	☐ Yes	☒ No			
(6) Agree to pay money or property to a government official? (**Exception.** Check "No" if the trust agreed to make a grant to or to employ the official for a period after termination of government service, if terminating within 90 days.)	☐ Yes	☒ No			
b If any answer is "Yes" to lines 75a(1) through (6), did **any** of the acts fail to qualify under the exceptions described in Regulations sections 53.4941(d)-3 and 4, or in a current Notice regarding disaster assistance (see the instructions)? N/A			**75b**		
Organizations relying on a current Notice regarding disaster assistance, check here ► ☐					
c Did the trust engage in a prior year in any of the acts described in line 75a, other than excepted acts, that were not corrected before January 1, 2018?			**75c**		X
76 Does section 4947(b)(3)(A) or (B) apply? (see the instructions)	☐ Yes	☒ No			
If "Yes," check the "N/A" box in lines 77 and 78.					
77 Taxes on excess business holdings (section 4943): ☐ **N/A**					
a Did the trust hold more than a 2% direct or indirect interest in any business enterprise at any time during 2018?	☐ Yes	☒ No			
b If "Yes," did the trust have excess business holdings in 2018 as a result of **(1)** any purchase by the trust or disqualified persons after May 26, 1969; **(2)** the lapse of the 5-year period (or longer period approved by the Commissioner under section 4943(c)(7)) to dispose of holdings acquired by gift or bequest; or **(3)** the lapse of the 10-, 15-, or 20-year first phase holding period? N/A			**77b**		
Use Schedule C, Form 4720, to determine if the trust had excess business holdings in 2018.					
78 Taxes on investments that jeopardize charitable purposes (section 4944): ☐ **N/A**					
a Did the trust invest during 2018 any amount in a manner that would jeopardize its charitable purpose?			**78a**		X
b Did the trust make any investment in a prior year (but after December 31, 1969) that could jeopardize its charitable purpose that had not been removed from jeopardy before January 1, 2018?			**78b**		X
79 Taxes on taxable expenditures (section 4945) and political expenditures (section 4955):					
a During 2018, did the trust pay or incur any amount to:					
(1) Carry on propaganda, or otherwise attempt to influence legislation (section 4945(e))?	☐ Yes	☒ No			
(2) Influence the outcome of any specific public election (see section 4955); or to carry on, directly or indirectly, any voter registration drive?	☐ Yes	☒ No			
(3) Provide a grant to an individual for travel, study, or other similar purposes?	☐ Yes	☒ No			
(4) Provide a grant to an organization other than a charitable, etc., organization described in section 509(a)(1), (2), or (3), or section 4940(d)(2)?	☐ Yes	☒ No			
(5) Provide for any purpose other than religious, charitable, scientific, literary, or educational, or for the prevention of cruelty to children or animals?	☐ Yes	☒ No			
b If any answer is "Yes" to lines 79a(1) through (5), did **any** of the transactions fail to qualify under the exceptions described in Regulations section 53.4945, or in a current Notice regarding disaster assistance (see the instructions)? N/A			**79b**		
Organizations relying on a current Notice regarding disaster assistance, check here ► ☐					
c If the answer is "Yes" to line 79a(4), does the trust claim exemption from the tax because it maintained expenditure responsibility for the grant? N/A	☐ Yes	☐ No			
If "Yes," attach the statement required by Regulations section 53.4945-5(d).					
80 Personal benefit contracts (section 170(f)(10)):					
a Did the trust, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?	☐ Yes	☒ No			
b Did the trust, during the year, pay premiums, directly or indirectly, on a personal benefit contract?			**80b**		
If "Yes" to line 80b, file Form 8870 (see the instructions).					

Form **5227** (2018)

EXAMPLE 1997 CHARITABLE TRUST 77-0000000

Form 5227 (2018) Page **6**

Part VII **Questionnaire for Charitable Lead Trusts, Pooled Income Funds, and Charitable Remainder Trusts** (see the instructions)

Section A—All Trusts

81 Check this box if any of the split-interest trust's income interests expired during 2018 ► ☐

82 Check this box if all of the split-interest trust's income interests expired before 2018 ► ☐
If line 82 (above) is checked and this is **not** a final return, attach an explanation.

Section B—Charitable Lead Trusts

83 Does the governing instrument require income in excess of the required annuity or unitrust payments to be paid for charitable purposes? ☐ Yes ☐ No

84 Enter the amount of any excess income required to be paid for charitable purposes for 2018	**84**	
85 Enter the amount of annuity or unitrust payments required to be paid to charitable beneficiaries for 2018	**85**	

Section C—Pooled Income Funds

86 Enter the amount of contributions received during 2018	**86**	
87 Enter the amount required to be distributed for 2018 to satisfy the remainder interest	**87**	
88 Enter any amounts that were required to be distributed to the remainder beneficiary that remain undistributed	**88**	
89 Enter the amount of income required to be paid to the charitable remainder beneficiary for 2018	**89**	

Section D—Charitable Remainder Trusts

90 Check this box if you are filing for a charitable remainder annuity trust or a charitable remainder unitrust whose charitable interests involve only cemeteries or war veterans' posts ► ☐

91 Check this box if you are making an election under Regulations section 1.664-2(a)(1)(i)(a)(2) or 1.664-3(a)(1)(i)(g)(2) to treat income generated from certain property distributions (other than cash) by the trust as occurring on the last day of the tax year. (see the instructions) ► ☐

92 Are you making an election under Regulations section 1.1411-10(g) with respect to a controlled foreign corporation or a qualified electing fund? (see the instructions) ☐ Yes ☐ No

93 Is this the initial return? If 'Yes,' attach a copy of the trust instrument ☐ Yes ☒ No

94 Was the trust instrument amended during the year? If 'Yes,' attach a copy ☐ Yes ☐ No

95a If this is the final return, were final distributions made according to the trust instrument? ☐ Yes ☐ No

b If 'Yes,' did you complete line 31? ☐ Yes ☐ No

c If either line 95a or 95b is 'No,' explain why ►

96 At any time during calendar year 2018, did the trust have an interest in or a signature or other authority over a bank, securities, or other financial account in a foreign country? ☐ Yes ☒ No
See the instructions for exceptions and filing requirements for FinCEN Form 114. If 'Yes,' enter the name of the foreign country ►

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than trustee) is based on all information of which preparer has any knowledge.

Signature of trustee or officer representing trustee — Date

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN
CLAUDIA HILL, EA, MBA	CLAUDIA HILL, EA, MBA			P00049715
Firm's name ► TMI TAX SERVICES GROUP, INC.				
Firm's address ► 20395 PACIFICA DRIVE., STE 100			Firm's EIN ► 205002270	
CUPERTINO, CA 95014			Phone no. 408-446-4451	

Form **5227** (2018)

Form 5227 (2018) Page **7**

Full name of trust	Employer identification number
EXAMPLE 1997 CHARITABLE TRUST	77-0000000

NOT Open To Public Inspection

Schedule A—Distributions, Assets, and Donor Information

Part I-A **Accumulation Schedule** (Section 664 trust only) (see the instructions)

Accumulations	(a) Ordinary income		(b) Capital gain (loss)		(c) Nontaxable income	
Net Investment Income (NII) Classification	Excluded Income	Accumulated NII	Excluded Income	Accumulated NII	Excluded Income	Accumulated NII
1 Total distributable income. Enter the amount from line 29		61,735.	1361608.	93,409.		
2a Total distributions for 2018: 178,283.						
b 2018 distributions from income		61,735.	23,139.	93,409.		
3 Undistributed income at end of tax year. Subtract line 2b from line 1			1338469.			

Part I-B **Simplified Net Investment Income Calculation**

	(a) Accumulated NII	(b) Current Year NII	(c) Distributions	(d) Ending NII
4				

Part II-A **Current Distributions Schedule** (Section 664 trust only) (see the instructions)

	(a) Name of recipient	(b) Identifying number	(c) Percentage of total unitrust amount payable (if applicable)
4a	A PITTERPATTER	544-20-3666	50.0000 %
b	QUIET PITTERPATTER	545-36-9699	50.0000 %
c			%

	(d) Ordinary Income	Capital gains (e) Short-term	Capital gains (f) Long-term	(g) Nontaxable Income	(h) Corpus	(i) Total (add cols. (d) through (h))	(j) Net investment income
4a	30,868.		58,274.			89,142.	77,572.
b	30,867.		58,274.			89,141.	77,572.
c							
Total	61,735.	0.	116,548.	0.	0.	178,283.	155,144.

If Part II-A, Total, column (i) does not agree with line 61b of Form 5227 for a CRAT or line 68 of Form 5227 for a CRUT, check here ► ☐ and attach an explanation.

Part II-B **Current Distributions** (charitable lead trusts or pooled income funds only) (see the instructions)

5 Enter the amount required to be paid to private beneficiaries for 2018. ►

Part III **Assets and Donor Information** (Section 664 trust or charitable lead trust only)

6 Is this the initial return or were additional assets contributed to the trust in 2018? ☐ **Yes** ☒ **No**
If "Yes," complete the schedule below.
If "No," complete only column (a) of the schedule below.

	(a) Name and address of donor	(b) Description of each asset donated	(c) FMV of each asset on date of donation	(d) Date of donation
7a				
7b				
7c				
7d Total ►				

8 For charitable remainder trusts: If this was the final year, was an early termination agreement signed by all parties to the trust? ☐ **Yes** ☐ **No** ☐ **N/A**
If "Yes," attach a copy of the signed agreement.

FIFA9707L 07/02/18 Form **5227** (2018)

2018 | **FEDERAL STATEMENTS** | **PAGE 1**

EXAMPLE 1997 CHARITABLE TRUST
CLIENT EXAMPLE | **U/A 01/01/1997** | **77-0000000**

5/24/19 | 03:49PM

STATEMENT 1
FORM 5227, LINE 2A
TOTAL ORDINARY DIVIDENDS

VANGUARD 500 INDEX FUND ADM	$	18,805.
VANGUARD EXTENDED MARKET INDEX ADM		14,019.
VANGUARD SMALL-CAP INDEX FUND ADM		14,683.
VANGUARD TOT INT'L STOCK IX ADMIRAL		16,452.
TOTAL	$	63,959.

STATEMENT 2
FORM 5227, LINE 2B
QUALIFIED DIVIDENDS

VANGUARD 500 INDEX FUND ADM	$	18,805.
VANGUARD EXTENDED MARKET INDEX ADM		9,969.
VANGUARD SMALL-CAP INDEX FUND ADM		10,150.
VANGUARD TOT INT'L STOCK IX ADMIRAL		12,270.
TOTAL	$	51,194.

STATEMENT 3
FORM 5227, LINE 18
TAXES

OTHER TAXES	$	1,224.
TOTAL	$	1,224.

STATEMENT 4
FORM 5227, LINE 45B, INVESTMENTS
CORPORATE STOCK

DESCRIPTION	BEGINNING BOOK VALUE	END OF YEAR BOOK VALUE	FAIR MARKET VALUE	COST OR MARKET
VANGUARD 500 INDEX FUND	$ 382,691.	$ 660,223.	$ 866,271.	MARKET
VANGUARD EXTENDED MKT INDEX ADM	480,578.	722,059.	852,817.	MARKET
VANGUARD INT'L STOCK INDEX	397,745.	451,200.	487,440.	MARKET
VANGUARD SMALL-CAP INDEX FUND	339,423.	664,604.	881,508.	MARKET
TOTAL	$1,600,437.	$2,498,086.	$ 3,088,036.	

STATEMENT 5
FORM 5227, LINE 49
OTHER ASSETS

DESCRIPTION	BEGINNING BOOK VALUE	END OF YEAR BOOK VALUE	FAIR MARKET VALUE
ADJ TO YEAR START VALUE	$ 0.	$ 0.	$ 477,618.
TOTAL	$ 0.	$ 0.	$ 477,618.

STATEMENT 6
FORM 5227, LINE 65A
CHARITABLE REMAINDER UNITRUST INFORMATION BY RECIPIENT

A PITTERPATTER	50.00%
QUIET PITTERPATTER	50.00%

CLIENT EXAMPLE

TMI TAX SERVICES GROUP, INC.
20395 PACIFICA DRIVE., STE 100
CUPERTINO, CA 95014
408-446-4451

August 28, 2019

MRS. MONEYPENNY
EXAMPLE 1997 CHARITABLE TRUST
U/A 01/01/1997
200 STRAWBERRY HILL ROAD
CUPERTINO, CA 95014

Dear Aldo & QT:

Based on the year-end value of $3,565,654. The 2019 annual distribution amount will be $178,282. Your first quarterly distribution of $44,570.67 is due March 31, 2019, and again at the end of each calendar quarter. The attached sheet shows historical information for this CRUT.

Enclosed is your 2018 Split-Interest Trust Information Return. The original should be signed at the bottom of page six. No tax is payable with the filing of this return. Mail your Federal Form 5227 on or before April 15, 2019 to:

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
OGDEN, UT 84201-0027

Enclosed is your 2018 California Charitable Remainder Trust Return. The original should be signed at the bottom of page one. No tax is payable with the filing of this return. Mail your California return on or before April 15, 2019 to:

FRANCHISE TAX BOARD
P.O. BOX 942840
SACRAMENTO, CA 94240-0001

If applicable, you must distribute a copy of the 2018 Schedule K-1 to each beneficiary. Be sure to give each beneficiary a copy of the Beneficiary's Instructions for Schedule K-1. Please be sure to call us if you have any questions.

THIS TRUST WAS CREATED IN 1997 TO PROVIDE LIFETIME INCOME TO ALDO & QUIET PITTERPATTER, TERMINATE AT THE LAST TO DIE, THEN DISTRIBUTE TO THEIR LIST OF FAVORED CHARITIES. SUCCESS TRUSTEE AT THEIR DEATH IS THEIR DAUGHTER, SOLO PITTERPATTER MONEYPENNY.

Sincerely,

Claudia Hill, EA, MBA

661117

Final K-1 ☐ Amended K-1 ☐ OMB No. 1545-0092

Schedule K-1 (Form 1041) **2018**

Department of the Treasury
Internal Revenue Service

For calendar year 2018, or tax year

beginning ______ ending ______

Beneficiary's Share of Income, Deductions, Credits, etc.

► See back of form and instructions.

Part I Information About the Estate or Trust

A Estate's or trust's employer identification number

77-0000000

B Estate's or trust's name

EXAMPLE 1997 CHARITABLE TRUST
U/A 01/01/1997

C Fiduciary's name, address, city, state, and ZIP code

MRS. MONEYPENNY
200 STRAWBERRY HILL ROAD
CUPERTINO, CA 95014

D ☐ Check if Form 1041-T was filed and enter the date it was filed ______

E ☐ Check if this is the final Form 1041 for the estate or trust

Part II Information About the Beneficiary

F Beneficiary's identifying number

544-20-3666

G Beneficiary's name, address, city, state, and ZIP code

A PITTERPATTER
800 BLOSSOM HILL RD #P282
LOS GATOS, CA 95032

BENEFICIARY 1

H ☒ Domestic beneficiary ☐ Foreign beneficiary

Part III Beneficiary's Share of Current Year Income, Deductions, Credits, and Other Items

1	Interest income	
2a	Ordinary dividends	30,868.
2b	Qualified dividends	24,707.
3	Net short-term capital gain	
4a	Net long-term capital gain	58,274.
4b	28% rate gain	
4c	Unrecaptured section 1250 gain	
5	Other portfolio and nonbusiness income	
6	Ordinary business income	
7	Net rental real estate income	
8	Other rental income	
9	Directly apportioned deductions	
10	Estate tax deduction	
11	Final year deductions	
12	Alternative minimum tax adjustment	
13	Credits and credit recapture	
14	Other information	E 30,868.
		H -11,570.

*See attached statement for additional information.

Note: A statement must be attached showing the beneficiary's share of income and directly apportioned deductions from each business, rental real estate, and other rental activity.

FOR IRS USE ONLY

BAA For Paperwork Reduction Act Notice, see the Instructions for Form 1041. Schedule K-1 (Form 1041) 2018

REVIEW QUESTIONS

Under the NASBA-AICPA self-study standards, self-study sponsors are required to present review questions intermittently throughout each self-study course. Additionally, feedback must be given to the course participant in the form of answers to the review questions and the reason why answers are correct or incorrect.

To obtain the maximum benefit from this course, we recommend that you complete each of the following questions, and then compare your answers with the solutions that immediately follow. *These questions and related suggested solutions are not part of the final examination and will not be graded by the sponsor.*

6. What is true of the "probability of exhaustion" test and Rev. Proc. 2016-42?

    a) The revenue procedure provides that all CRATs are subject to the probability of exhaustion test
    b) The probability of exhaustion test is used to determine if a CRAT is complying with a regulatory requirement guaranteeing that there is almost no chance that the charity will receive no money
    c) Including a provision regarding the probability of exhaustion will cause the trust to fail as a CRAT
    d) The provision under the revenue procedures is a qualified contingency applying to trusts created on or after December 31, 2016

7. In order for a gift to a charitable remainder unitrust to qualify for income and gift tax deductions, certain conditions must be met. Which of the following is one of those conditions?

    a) A fixed percentage of not less than 10% nor more than 50% of the net FMV of the assets is paid to at least one noncharitable beneficiary who was alive when the trust was created
    b) The unitrust assets must be revalued at least once every two years
    c) At the end of the trust term, the balance of the assets must be paid to a single designated charitable organization
    d) No amount can be paid during the trust term except for the fixed percentage amount

8. Distinguishing factors of charitable remainder trusts (CRTs) include which of the following?

    a) A taxpayer may use a loss in any one category of reported income to reduce undistributed gain from prior years within the same category
    b) Income must be reported in two categories: as ordinary income and nontaxable income
    c) A CRT is like other trusts and must file Form 1041 but must also file Form 8282, Donee Information Return
    d) A loss in any one category of reported income may be used to reduce a gain in another category

9. For purposes of distributions from a CRAT or CRUT, what are the characteristics of ordinary income and what are its ordering rules?

a) Ordinary income is treated as a single class of income for ordering distributions
b) Distributions are treated as being made first from qualified dividends
c) Ordinary income should be computed without regard to any net operating loss deductions
d) All qualified dividends are subject to net investment income rules, taxed at 23.8%

10. What is true for the simplified net investment income calculation (SNIIC) election for U.S. Code §664 trusts?

    a) The election is revocable
    b) With the SNIIC election, the CRT computes net investment income in the same way as an individual
    c) If the election is made, the CRT's accumulated net investment income must be taken into account in all of the CRT's categories
    d) The SNIIC election will have no effect on the netting and ordering rules for ordinary income and capital gains and losses

SOLUTIONS TO REVIEW QUESTIONS

6. What is true of the "probability of exhaustion" test and Rev. Proc. 2016-42? **(Page 13)**

    a) Incorrect. The revenue procedures states that the CRAT will not be subject to the test if a provision is put into the governing instrument of the CRAT.
    b) Correct. The test is to verify that there is not more than a 5% probability that the trust would be exhausted before it ends.
    c) Incorrect. Its inclusion will not cause the trust to fail.
    d) Incorrect. The correct date is August 8, 2016.

7. In order for a gift to a charitable remainder unitrust to qualify for income and gift tax deductions, certain conditions must be met. Which of the following is one of those conditions? **(Page 17)**

    a) Incorrect. The unitrust (CRUT) pays an annual fixed percentage of not less than 5% or more than 50% of the net FMV of the trust's assets, calculated annually. It is correct that the noncharitable beneficiaries must be alive at the creation of the trust.
    b) Incorrect. The assets must be revalued every year.
    c) Incorrect. More than one charitable organization may be the recipient.
    d) Correct. The fixed percentage is not less than 5% but not more than 50% of the net FMV of the assets.

8. Distinguishing factors of charitable remainder trusts (CRTs) include which of the following? **(Page 24)**

    a) Correct. In addition, any excess may be carried forward to reduce gain in subsequent years but only within the same category.
    b) Incorrect. There are three categorizes of current and undistributed income that are used to determine the character of distributions: ordinary income, capital gains and losses, and nontaxable income.
    c) Incorrect. The CRT must file Form 5227, Split-Interest Trust Information Return, not Form 1041.
    d) Incorrect. Any loss can be used to reduce gain only within the same category.

9. For purposes of distributions from a CRAT or CRUT, what are the characteristics of ordinary income and what are its ordering rules? **(Page 25)**

    a) Incorrect. For purposes of ordering distributions, there are two classes: qualified dividends and all other ordinary income.
    b) Incorrect. Distributions are considered to be made first from all other ordinary income.
    c) Correct. Deductions under IRC §172 are disregarded.
    d) Incorrect. The dividends that are subject to NIIT are taxed at 23.8%. There are dividends that are excluded, which are taxed at 20%.

10. What is true for the simplified net investment income calculation (SNIIC) election for U.S. Code §664 trusts? **(Page 26)**

a) Incorrect. The election is irrevocable.
b) Correct. The simplified method is not dependent on the IRC §664 category (charitable remainder trusts) and class system.
c) Incorrect. The NII is separate and is not combined, assigned or taken into account with ordinary income, capital gain, or nontaxable income.
d) Incorrect. The election will change these ordering and netting rules as laid out in the Form 5227 instructions.

GLOSSARY

Charitable remainder annuity trust (CRAT): a type of CRT that pays to the beneficiary a fixed percentage of the initial value of trust assets periodically (monthly, quarterly, etc.). The annuity amount must be at least 5%, but not more than 50%, of the initial net fair market value of all property contributed to the trust

Charitable remainder trust (CRT): a trust in which the noncharitable beneficiaries are the current beneficiaries, and the remainder interest goes to charity

Charitable remainder unitrust (CRUT): a type of CRT that pays to the beneficiary a fixed percentage of the revalued trust assets (as revalued annually) (not less than 5%, but not more than 50%)

FLIP CRUT: a CRUT where the initial unitrust amount is the lesser of income or fixed percentage, and, when after a triggering event, the unitrust amount flips to the fixed percentage

Irrevocable trust: a trust that cannot be modified or terminated without the permission of the beneficiary. Once assets have been transferred into the trust, the grantor has removed all rights of ownership

Net income charitable remainder unitrust (NICRUT): like a CRUT, except that payments to the annuitant will be limited to the *lesser* of trust income or the unitrust percentage, with no deferred percentage payments

Net income makeup charitable remainder unitrust (NIMCRUT): has similar provisions limiting payments to net income, but also includes a provision that previously foregone payments can be made up later when income is larger than the regular payments

"Probability of exhaustion" test: per the IRS, "used to determine whether a CRAT complies with the regulatory requirement applicable to all contingent charitable transfers that only a negligible chance exists that the charity will receive nothing"

Recipient: a beneficiary who receives the possession or beneficial enjoyment of the unitrust or annuity amount

Remainderman: The individual or organization named in the trust instrument who receives whatever is remaining in a trust account after all required payments have been made

Simplified net investment income calculation (SNIIC) election: an irrevocable election by a CRT to calculate receipts and distributions of net investment income using a simplified method that is independent of the 26 U.S. Code §664 category and class system

Split-interest trust: a charitable remainder trust where the trust is split between the present interest, which is with the beneficiary, and the remainder interest, which goes to a designated charity

Trust: a fiduciary relationship with respect to specific property to which the trustee holds legal title for the benefit of beneficiaries, who hold equitable title

Trustee: the person that manages the trust and holds legal title

INDEX

CHARITABLE REMAINDER TRUSTS
Course description and study guide

Course objectives: This course will provide a reviewan analysis of the planning and preparation of charitable remainder trusts (CRTs) and as well as their tax benefits to donors. Topics discussed include: split-interest trusts in general; CRATs, CRUTs, NIMCRUTs, NICRUTs, and FLIP CRUTs; filing issues, the "probability of exhaustion" test; income and gift tax consequences; ordering rules for distributions; the simplified net investment income calculation (SNIIC) election; and much more.

Completion deadline and exam: This course, including the examination, must be completed within one year of the date of purchase. In addition, unless otherwise indicated, no correct or incorrect feedback for any exam question will be provided.

Category: Taxes

Recommended CPE Hours: CPAs — 2 Tax
EAs — 2 Federal Tax
CRTPs — 2 Federal Tax

Level: Intermediate

Prerequisite: General knowledge of estates and trusts is required.

Advance Preparation: None

Course qualification: Qualifies for QAS and NASBA Registry CPE credit based on a 50-minute per CPE hour measurement

CPE sponsor information: Spidell Publishing, Inc. (Registry ID: 104931)

Expiration Date: August 2020*

*Exam must be completed within one year of the date of purchase

Learning assignment and objectives

As a result of studying the assigned materials, you should be able to meet the objectives listed below.

Assignment:

At the start of the materials, participants should identify the following topics for study:

- Split-interest trusts in general
- CRATs, CRUTs, NIMCRUTs, NICRUTs, and FLIP CRUTs
- Income and gift tax consequences

Learning Objectives:

After completing this course, you will be able to:

- Recall how the annual fixed percentage of a charitable remainder unitrust is determined
- Determine the timing and amount of the income tax deduction for a charitable gift to a CRT
- Recall what happens to the unitrust amount following a trigger event precipitating a FLIP CRUT
- Identify the consequences of putting a provision in a CRAT regarding the probability of exhaustion
- Identify the characteristics of distributions in the hands of beneficiaries receiving annuities
- Determine how the SNIIC election affects accumulated net investment income

After studying the materials, please answer exam questions 1-10.

Course Evaluation for Spidell Publishing, Inc.

Program title: **Charitable Remainder Trusts**

If applicable, program instructor: ____________________________

Program date: ______________ Participant name (optional): _____________________

Instructions: Please comment on all of the following evaluation points for this program and assign a number grade, using a 1-5 scale, with 5 as the highest rating.

1. Were the stated learning objectives met? ______________
2. If applicable, were prerequisite requirements appropriate and sufficient? ______________
3. Were the program materials accurate? ______________
4. Were program materials relevant, and did they contribute to the achievement of the learning objectives? ______________
5. Was the time allotted to the learning activity appropriate? ______________
6. If applicable, were the individual instructors knowledgeable and effective? _____________
7. Were the facilities and/or technological equipment appropriate? ______________
8. Were the handout and/or advanced preparation materials satisfactory? ______________
9. Were the audio and visual materials effective? ______________

IRS Course Number (if applicable): CRA7E-T-00407-19-S

TTP (CTEC) Course Number (if applicable): 1019-CE-0932

Date course completed: ______________

Number of hours it took to complete the course: ______________

Examination for Spidell's Charitable Remainder Trusts

PLEASE: Place the correct response for each question on the attached answer sheet and retain this examination for your records. If you purchased the online version, or would like to complete your exam online, please log-in to your SpidellCPE online account to submit your answers to the exam. 70% or more (7 of 10) correct responses are necessary to receive credit for this course. This course must be completed within one year of the date of purchase.

Final Exam Questions

1. A split-interest trust:
   - **a)** Is exempt from tax
   - **b)** Is devoted exclusively to charitable or religious purposes
   - **c)** Has amounts transferred in trust post-January 1969 for which a deduction is allowed
   - **d)** Is subject to many of the same restrictions that are imposed on private foundations
2. A charitable remainder unitrust (CRUT) pays an annual fixed percentage of _______ of the net FMV of the trust's assets, calculated annually.
   - **a)** Not less than 10% but not more than 60%
   - **b)** Not less than 5% but not more than 50%
   - **c)** Not less than 5% but not more than 55%
   - **d)** Not less than 10% but not more than 50%
3. What are the tax consequences of using a charitable remainder trust?
   - **a)** The donor gets a charitable income tax deduction in the year of the gift for the FMV of the remainder interest that passes to the charity, limited to 35% of his or her AGI
   - **b)** The donor will receive an income tax deduction only when the remainder interest passes to the charity
   - **c)** The CRT is a nonprofit entity, but it will pay tax on earned income
   - **d)** All investment growth in the future that occurs within the trust will not be taxed except for possible taxation on payments received by the donor
4. Which of these trusts operates like a regular charitable remainder unitrust, but the payments to the annuitant are limited to the *lesser* of trust income or the unitrust percentage?
   - **a)** CRAT
   - **b)** NIMCRUT
   - **c)** NICRUT
   - **d)** FLIP CRUT
5. What is not a requirement of a FLIP CRUT?
   - **a)** The flip occurs during the taxable year during which the triggering event or date occurs
   - **b)** The flip from a NICRUT or NIMCRUT to a fixed percentage CRUT is triggered either on a particular date or as a consequence of a single event that is not within the control of the trustee or another individual
   - **c)** After the flip, the CRT becomes a fixed percentage CRT
   - **d)** Subsequent to the flip, the makeup account is forfeited
6. To which of the following trusts can additional contributions be made?
   - **a)** CRAT
   - **b)** CRUT
   - **c)** Both of the above
   - **d)** Neither of the above

7. What form must be filed if the trustee of a charitable remainder trust sells or exchanges certain trust assets within two years of the CRT receiving the property?

   a) Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return
   b) Form 5227, Split-Interest Trust Information Return
   c) Form 8282, Donee Information Return
   d) None of the above

8. Under Rev. Proc. 2016-42, if sample language is included in the governing instrument of the CRAT, once the value of the CRAT reaches the point where _______ of the trust assets remain, the trust will automatically end prematurely and pay the remainder to charity.

   a) 10%
   b) 5%
   c) 20%
   d) 15 %

9. When determining the character of amounts distributed by a CRAT or CRUT, which comes last as to their characteristics in the hands of the beneficiaries receiving the annuity?

   a) As a capital gain to the extent of the capital gain of the trust for the current year and the undistributed capital gain from previous years
   b) As a distribution of trust corpus
   c) As ordinary income to the extent of ordinary income of the trust for the current year and undistributed ordinary income from previous years
   d) As nontaxable income to the extent of nontaxable income for the current year and undistributed nontaxable income from previous years

10. For a CRT, within the capital gain income tier, items are allocated to different classes based on the federal income tax rate that applies to each type of income in that category as accounted for by the trust. Which statement is true regarding these classes and rates?

   a) Section 1250 long-term capital gain is taxed at 20%
   b) Long-term capital gain is taxed at 25%
   c) Ordinary income that is excluded from net investment income is taxed at 31.8%
   d) The highest rate for short-term capital gains subject to the NIIT is 43.4%

Name ____

Answer Sheet for Spidell's Charitable Remainder Trusts

Name: ___________________________ Signature: _________________________

Company: ________________________ No. of Hours to Complete (Max. 2): ________

Address: ____

City/State/ZIP: ____

Phone: __________________________ Fax: ____________________________

E-mail: ____

License/Registration No.: __________ ☐ CPA ☐ EA ☐ CRTP (CTEC) ☐ Atty

PTIN: __________

If you are an EA or CRTP (CTEC), we must have your PTIN in order to report your hours to the IRS.

Deadline to Complete the Course: *In accordance with NASBA and IRS requirements, you have one year from the date of purchase to complete the examination and submit it to our office for grading.*

This examination is designed to test your knowledge on the content of **Spidell's Charitable Remainder Trusts**. We will grade the answer sheet, and if you answer 70% or more of the questions correctly you will be sent a certificate of completion. Passing CPAs will be recommended for two hours of continuing education credit, and passing EAs and CRTPs will be recommended for two federal tax hours of continuing education.

* Attorneys will be recommended for 1.5 hours of general MCLE credit.

Mail or fax this Answer Sheet to:

Spidell Publishing, Inc.
P.O. Box 61044
Anaheim, CA 92803-6144
Fax: (714) 776-9906

Name ______________________________

Final Exam Questions

1. ☐ **a)** Is exempt from tax
   ☐ **b)** Is devoted exclusively to charitable or religious purposes
   ☐ **c)** Has amounts transferred in trust post-January 1969 for which a deduction is allowed
   ☐ **d)** Is subject to many of the same restrictions that are imposed on private foundations

2. ☐ **a)** Not less than 10% but not more than 60%
   ☐ **b)** Not less than 5% but not more than 50%
   ☐ **c)** Not less than 5% but not more than 55%
   ☐ **d)** Not less than 10% but not more than 50%

3. ☐ **a)** The donor gets a charitable income tax deduction in the year of the gift for the FMV of the remainder interest that passes to the charity, limited to 35% of his or her AGI
   ☐ **b)** The donor will receive an income tax deduction only when the remainder interest passes to the charity
   ☐ **c)** The CRT is a nonprofit entity, but it will pay tax on earned income
   ☐ **d)** All investment growth in the future that occurs within the trust will not be taxed except for possible taxation on payments received by the donor

4. ☐ **a)** CRAT
   ☐ **b)** NIMCRUT
   ☐ **c)** NICRUT
   ☐ **d)** FLIP CRUT

5. ☐ **a)** The flip occurs during the taxable year during which the triggering event or date occurs
   ☐ **b)** The flip from a NICRUT or NIMCRUT to a fixed percentage CRUT is triggered either on a particular date or as a consequence of a single event that is not within the control of the trustee or another individual
   ☐ **c)** After the flip, the CRT becomes a fixed percentage CRT
   ☐ **d)** Subsequent to the flip, the makeup account is forfeited

6. ☐ **a)** CRAT
   ☐ **b)** CRUT
   ☐ **c)** Both of the above
   ☐ **d)** Neither of the above

7. ☐ **a)** Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return
   ☐ **b)** Form 5227, Split-Interest Trust Information Return
   ☐ **c)** Form 8282, Donee Information Return
   ☐ **d)** None of the above

8. ☐ **a)** 10%
   ☐ **b)** 5%
   ☐ **c)** 20%
   ☐ **d)** 15 %

9. ☐ **a)** As a capital gain to the extent of the capital gain of the trust for the current year and the undistributed capital gain from previous years
   ☐ **b)** As a distribution of trust corpus
   ☐ **c)** As ordinary income to the extent of ordinary income of the trust for the current year and undistributed ordinary income from previous years
   ☐ **d)** As nontaxable income to the extent of nontaxable income for the current year and undistributed nontaxable income from previous years

10. ☐ **a)** Section 1250 long-term capital gain is taxed at 20%
   ☐ **b)** Long-term capital gain is taxed at 25%
   ☐ **c)** Ordinary income that is excluded from net investment income is taxed at 31.8%
   ☐ **d)** The highest rate for short-term capital gains subject to the NIIT is 43.4%