Charitable Remainder Trust

If a Donor wishes to make a donation to charity, a Charitable Remainder Trust ("CRT") is a very tax effective method of accomplishing the desired result.

A Charitable Remainder Trust is a settlement of property whereby the Donor retains a life interest in property but makes an irrevocable gift of the remainder interest to a registered charity (or charities) of the Donor's choice. Income from the investments held by the CRT is paid to the Donor during their lifetime, and the Donor receives the immediate benefit of a charitable receipt, which may be credited against tax on current and future income.

The charity issues a receipt for the "present value" of the donation. This value is calculated on the basis of actuarial statistics of life expectancy of the Donor and current interest rates.

In contrast, donations made in a will are deemed to have been made in the year of death and the tax benefit of the gift is thus truncated by the death of the Donor. A donation through a CRT will give an immediate and ongoing tax benefit to the Donor, while they continue to receive income from the property invested by the CRT.

Upon the death of the Donor, the CRT property is immediately distributed to the charity without the delays associated with the administration of an estate. As well, the lifetime gift to the charity by way of a CRT does not form part of the estate on death and is therefore not subject to probate tax. In addition the gift to the charity is assured, which allows the organization to make long-term plans with confidence.

The Donor and the charity both benefit from the professional management of the funds by an experienced corporate trustee.

In the absence any direction in the Trust Agreement establishing the CRT, investments are restricted by provincial legislation. The trustee has the duty to invest the assets prudently and to keep an even hand as between the income beneficiary (the Donor who retains a life interest) and the capital beneficiary (the charity). The Trust Agreement may spell out the goals and objectives of investment in order to guide the exercise of the trustee's discretion.

The income received from the CRT during the Donor's life is taxed in the Donor's hands. Income is paid to the Donor at specified intervals as set out in the Trust Agreement. A "T3 slip" will be issued by the trustee to the Donor annually.

Capital gains are taxed in the CRT at the rates applicable to inter vivos (lifetime) trusts, though there may by techniques available to allocate the gains to the charity. Definitive advice should be provided by a tax professional.

More than one person can receive income from the CRT. For example, the Donor may direct that their spouse also has a life interest in the CRT and is to receive income. However, this may have a significant effect on the allowable tax receipt issued by the charity, because the discounted value of the gift is based on the life expectancy of the income recipient who is likely to live the longest.

A Charitable Remainder Trust is established, usually through a meeting between the Donor and representatives of the charity and a trust company or other trustee. After the details have been discussed, arrangements are made to have a Trust Agreement prepared by a lawyer. The minimum donation required to set up a CRT with a trust company is usually $200,000.00, although individual charities may have other arrangement for smaller donations. There will be some expenses related to establishing and administering the CRT.

In short, the great attraction of the Charitable Remainder Trust is that it permits maximum income to the Donor, secures the maximum donation to the charity, and provides the Donor maximum availability of a large charitable tax credit, most of which would be lost if the same gift was left by the Donor in their will.

For additional information on this subject, please contact Michael J. White.

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