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# Comparison of Common Planned Charitable Giving Techniques

## Common Non-Trust Vehicles for Planned Giving

| | Gift Annuity | Donor Advised Fund | Private Foundation | Qualified Charitable IRA Distribution |
|---|---|---|---|---|
| Brief Description | Irrevocable gift directly to the charity subject to a contract allowing annual annuity payments to the donor for life (or the life of another). At the death of the donor (or other annuitant), the charity keeps the remaining funds. | Gift to a public charity, subject to an agreement with the donor. Donor advises on ultimate charitable recipients. | Donor creates a private foundation, which is typically a nonprofit corporation, and which is a grant-making 501(c)(3) entity. Donor vets recipient public charities for distributions and makes the distributions. | Distribution directly from an IRA to a charity chosen by the donor. Donor must be at least age 70 ½ in the year of the distribution. Distributions are limited to $100,000 per year. |
| Amount Deductible | At the time of the gift, the current value of the portion that the charity is expected to receive at the end of the annuity period | 100% at the time the gift is made, not when the recipient charities receive distributions from the DAF | 100% at the time assets are irrevocably transferred to the private foundation; no deduction when assets are later distributed to a charity | See notes below for the SECURE Act effect on deductibility. |
| Annual limits on deductions | 60% AGI for cash gifts to public charities; 30% AGI for non-cash gifts to public charities; with a 5 year carry forward for unused deduction amounts | 60% AGI for cash gifts to public charities; 30% AGI for non-cash gifts to public charities; with a 5 year carry forward | 30% AGI for most gifts; 20% AGI for appreciated securities, with a 5 year carry forward | See notes below on the SECURE Act effect on deductibility. |
| Ongoing administration for donor | None | None, other than recommend charity recipients | Substantial administration, incl. tax returns, vetting recipient charities, book-keeping, compliance, etc. | None |
| Ongoing Control for the donor | None. Income stream remains subject to the initial contract. | Minimal. Donor to recommend recipient charities. | Full control for the donor | None |

# Common Trust Vehicles for Planned Giving

| | Brief Description | Amount Deductible | Addit'l Contri-butions | Fixed or Variable Income Stream |
|---|---|---|---|---|
| CRT | Charitable Remainder Trust: pays amounts to noncharitable beneficiaries for a period of time, then the remainder goes outright to charitable beneficiaries | At donation, current value of amount going to charities (the remainder) | It depends on the type of CRT, see below. | It depends on the type of CRT, see blow. |
| CRAT | Charitable Remainder Annuity Trust: A CRT that pays a fixed dollar amount each year to noncharitable beneficiaries | Same as CRT | None | Fixed dollar amount annually |
| CRUT | Charitable Remainder Unitrust: A CRT that pays a fixed percentage of the FMV of the trust's assets to noncharitable beneficiaries calculated on current trust assets each year | Same as CRT | Yes | Variable dollar amount annually, based on fixed % of trust value each year |
| NIMCRUT | Net Income With Makeup CRUT: A CRUT whose payments to noncharitable beneficiaries can be made up in a future year if its income falls below its percentage payout in one year, allowing it to periodically pay less than its required percentage when its net income falls below that amount | Same as CRT | Yes | Same as CRUT, but with additional variations, based on high or low income production |
| FLIPCRUT | A CRUT that allows income to be the lesser of the fixed percentages or trust's net income and, after a triggering event, the unitrust changes (flips) to the fixed percentage. The triggering event is typically marriage, divorce, death, birth or sale of unmarketable assets. | Same as CRT | Yes | Same as a CRUT, but with additional variations based on the timing of the triggering event |
| CLT | Charitable Lead Trust: Pays amounts to charitable beneficiaries for a period of time, then the remainder goes to noncharitable beneficiaries. | For grantor trusts, at donation, current value of amounts going to charities (the income). No deduction at donation to non-grantor trusts. But the trust can deduct each charitable distribution annually during the term. | It depends based on the type of CLT, see below | It depends, based on the type of CLT, see below |

| | Brief Description | Amount Deductible | Addit'l Contrib-utions | Fixed or Variable Income Stream |
|---|---|---|---|---|
| CLAT | Charitable Lead Annuity Trust: A CLT that pays a fixed amount each year to charitable beneficiaries | Same as CLT | No | Fixed dollar amount annually |
| CLUT | Charitable Lead Unitrust: ACLT that pays a fixed percentage each year to charitable beneficiaries | Same as CLT | Yes | Variable dollar amount, based on fixed % of value each year |
| Reduce to Zero Trust | Revocable Living Trust, which provides that assets are divided between a Credit Shelter share and a Charitable share. The Credit Shelter share is equal to the federal estate tax exemption applicable at the time of death and the remaining trust assets are distributed to the charitable share | 100% of the amount in the charitable share of the Trust, which allows the decedent's trust/estate to receive a charitable tax deduction equal to the amount that would have been subject to federal estate tax, resulting in no federal estate tax, regardless of the applicable rate at time of death | Not by the original donor because the charitable share is calculated and funded after the donor's death. | N/A. This trust is not subject to the charitable lead and remainder trust rules above. To achieve the intended charitable deduction for estate tax purposes, this Trust cannot include non-charitable beneficiaries for any portion of these trust assets. |

The SECURE Act Effect on QCD's:
The Setting Every Community Up for Retirement Enhancement Act (SECURE Act) of 2019 raised the age of required minimum distributions from retirement plans to age 72, and it allows IRA owners to continue to make pre-tax contributions to their retirement plan past age 70 and ½. However, the rules allowing QCD's have not changed, so they are allowed, up to $100,000 per year, for IRA owners who are at least age 70 and ½. The SECURE Act creates a "last in first out" rule, which requires an IRA owner to reduce the QCD amount by amount contributed tax-free to the plan after age 70 and ½. The amount matching the pre-tax contributions becomes taxable to the IRA owner. The remainder of the charitable donation qualifies for QCD treatment and is not includable in the IRA owner's income for tax purposes. However, all of the charitable donation goes to the charity, regardless whether it qualifies for QCD treatment. The IRA owner will receive a charitable deduction in an amount equal to the portion that was includable in his or her income for that year. For example: IRA owner contributes a total of $20,000, pre-tax to her IRA in the years 2020 and 2021. In 2023, she wants to make a QCD of $50,000. All $50,000 will go directly from the IRA custodian to the charitable organization. IRA owner will report the first $20,000 as taxable income in 2023. She can also take a $20,000 charitable deduction for that year (if she itemizes). The remaining $30,000 qualifies for QCD treatment and is not includable in her income for tax purposes. Therefore, she cannot receive a charitable deduction for those amounts. The following year in 2024, IRA owner wants to make a QCD of $10,000. That entire amount will qualify for QCD treatment as long as she has not made additional pre-tax contributions to the IRA in that year.

Tax-Exempt Status of Charitable Trust Options:
It is important to note that CLT's are not tax-exempt entities. CRT's are tax-exempt entities which are subject to private foundation rules and limitations relating to self-dealing, unrelated business income, excess business holdings and jeopardizing investments. CRT's are being considered as a beneficiary option for retirement plans to reduce the tax

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effect of the shorter ten-year limitation on taxable distributions to certain beneficiaries under the SECURE Act (Setting Every Community Up For Retirement Enhancement) of 2019.

Further, CRT's are subject to the following restrictions at creation:

- CRT income payments must be no less than 5% and no more than 50% annually. There is no limit on income payments for a CLT.
- Present value of the remainder of a CRT, at date of creation, must have a minimum value of 10% of the initial gift. There is no minimum value for the remainder in a CLT.
- CRT's may provide income for a period of years (not exceeding 20 years) or for the lifetime of one or more individuals. There is no maximum number of years for a CLT.

General Disclaimers:

These planned giving techniques exclude outright gifts to charities, either during the donor's lifetime, through an estate plan, or by beneficiary designation.

This chart is intended to be a big picture view of these strategies. This is not intended to provide legal advice. There are various exceptions to these rules. Different facts may produce different results. It is important to consult an expert to inquire about the details of these strategies and how they may affect your specific circumstances. For more information, contact Holtvluwer Law.