

**GIANT, IMPORTANT DISCLAIMER: WE AREN'T GIVING LEGAL, TAX OR FINANCIAL ADVICE. PLEASE SEEK YOUR OWN COUNSEL FOR ANY DONATIONS. MANY OF THESE QUESTIONS ARE OPEN TO SOME INTERPRETATION, ARE GENERAL IN NATURE OR ARE UNIQUE TO A PARTICULAR JURISDICTION. ASSUME ALL ANSWERS ARE WRONG UNTIL YOU/YOUR DONOR CONFIRMS WITH HER/HIS ADVISOR.**

## Q & A from “This Isn’t Your Grandfather’s Gift Annuity: Three Advanced CGA Applications” Webinar, June 2021

<b>Will you be sharing these slides?</b>	No, but a free link to the full webinar is found on the Charitable Solutions and National Gift Annuity Foundation websites at <a href="http://www.charitableolutionsllc.com">www.charitableolutionsllc.com</a> and <a href="http://www.nationalgiftannuity.org">www.nationalgiftannuity.org</a> under the Resources tab.
<b>Should/must the Impact CGA pay the annuity only annually (vs. quarterly or monthly, e.g.)?</b>	Any frequency is fine.
<b>Can they do longer than 5 years?</b>	They can do it as long as they want. In fact, Yale had a donor with some crazy number of CGAs - maybe 50-60? It totaled \$60+ million as he would gather up all his CGA income and, then... wait for it..., would do a new CGA! I call that the compounding CGA.
<b>Does the availability of the charitable deduction for the redirected annuity payment change at all if the annuity was originally funded by long-term appreciated securities?</b>	No, since what is being "re-donated" is cash. In fact, under CARES, it likely will receive a 100% of AGI deduction assuming they itemize.
<b>What is the minimum CGA Funding amount for National Charitable Gift Annuity Foundation?</b>	\$20K

<p><b>What happens if the annuitant dies before the Impact Annuity payments are completed?</b></p>	<p>The Impact Annuity payments would cease at the death of the annuitant. The CGA would pay out all residuum to the charity and then there may be an additional deduction to the estate for the unrecovered basis.</p>
<p><b>Does Charitable Solutions discount the annuity rate or take a fee from the original gift annuity amount?</b></p>	<p>No, we use the ACGA recommended annuity rates. National Gift Annuity Foundation charges an all-in fee of 50 bps/quarter or 2%/year on the balance which is 1% for all investments/compliance/loss reserve/admin and 1% for operational expenses (staff, software, actuarial services, 990, audit, etc.). 100% of final residuum is then paid to charity(ies) donor designated.</p>
<p><b>What happens if he dies before the pledge is done?</b></p>	<p>Should see answers to other similar question above.</p>
<p><b>Sorry, I joined late. What is the benefit of this variety vs. just making those gifts each year from the income stream?</b></p>	<p>Just makes it simpler and more formal for the donor - it is automatic.</p>
<p><b>Is it true that Donor only gets charitable deduction for annuity payment/gift if they can itemize?</b></p>	<p>Yes - but they also get to eliminate some and defer any additional capital gain on the funding, when applicable.</p>
<p><b>OK, but if the remainder of the annuity goes to, say, endowment, then there is an unfulfilled pledge to the campaign. I guess either way the charity comes out ahead.</b></p>	<p>Correct - unless you otherwise would actually sue the estate (assuming binding pledge) if there was no CGA. You probably could still do that in extreme situations (school naming/building naming, etc.) unless the CGA residuum actually fulfilled the pledge/purpose.</p>
<p><b>The IRA beneficiary designation should only name the charity and not reference the CGA?</b></p>	<p>That depends on the IRA custodian. They will drive what is to be included in their Beneficiary Designation to fund the T-CGA at the death of the IRA owner.</p>

<p><b>Many investment agencies do not allow lengthy beneficiary designations?</b></p>	<p>Some may say that, but can be convinced otherwise. They may have to modify their normal short form Beneficiary Designation to accommodate the T-CGA. We just negotiated a full two- page T-CGA Beneficiary Designation with a large New York custodian, where we acted as the advocate for the donor who held their IRA there.</p>
<p><b>We've had issues with IRA custodians and financial agencies who insist on using their own standard beneficiary form. How do you get around that?</b></p>	<p>See above response. We hope they aren't a pain, and am very thankful for everything Johnni Hays is doing through the RIFT project, so hopefully it will be less an issue in the future.</p>
<p><b>What happens if the annuitant doesn't meet your organization's minimum age, per your gift acceptance policy?</b></p>	<p>It can create a deferral provision in the T-CGA to delay annuity payments until the annuitant named in the T-CGA reaches your minimum age for payout.</p>
<p><b>Re: TCGA - Many IRA custodians substantially limit the customization they allow in their beneficiary designations. Our organization simply has the donor list our charity then create a separate Letter of Understanding that outlines the TCGA plan, cites ACGA rates, etc.</b></p>	<p>Exactly - that is what we are doing as well when necessary!</p>
<p><b>Wouldn't a testamentary CRAT pay a fixed amount for life that won't fluctuate?</b></p>	<p>Same result, but most require \$1 million, attorney fees to set it up, K1s, etc. So possible, but may not be a simple, inefficient fit for most donors, especially with IRAs worth less than \$1M.</p>
<p><b>I missed the age at which the rate of the annuity will be based. He is talking fast.</b></p>	<p>The ACGA Rates in effect at the time of death of the IRA owner are used via formula in the T-CGA contract, testamentary funding.</p>

<p><b>I thought a CRAT payment is based on a fixed % rate and the amount of the trust at funding--those payments don't vary. But a CRUT would vary as the distribution is based on a fixed % that pays on the amount in the CRUT.</b></p>	<p>That is correct and a T-CRUT would still work for an IRA beneficiary to “stretch” the eventual payments of IRA proceeds over the life of the heir. But most require \$1 million, attorney fees to set it up, K1s, etc. So possible, but may not be a simple, inefficient fit for most donors, especially with IRAs worth less than \$1M.</p>
<p><b>Is it possible that a T CGA is setup, but at death the CGA does not qualify as a CGA per the IRS, probably because the beneficiaries are too young?</b></p>	<p>Possibly and in some cases very likely. But you can have a true up formula to defer annuity payments as long as needed to conform with future laws/rates. Can't do that with a T-CRUT or T-CRAT.</p>
<p><b>What is your minimum age for a CGA?</b></p>	<p>Age 55 is the minimum age for annuity payout to begin.</p>
<p><b>Do you prepare an actual CGA agreement at the time the IRA beneficiary designation is made?</b></p>	<p>Yes, we have created a special T-CGA contract that contains the eventual annuitant names, birthdates, etc. But the actual payout amount is described by formula since we do not know when the annuity will be funded until the IRA owner dies. It refers to whatever the ACGA rates are in effect at the donor's death.</p>
<p><b>What would happen if the donor died with, for example, \$10,000 left in her IRA and the TCGA stipulated that the TCGA value was \$20,000? Would the entire annuity fail, or could it be adjusted down to be established with the funds available?</b></p>	<p>That can be handled within your T-CGA agreement with the donor. With large national charities, but just naming the charity as beneficiary of an IRA and having a separate letter of instruction on file with the charity involves risk of those instructions being overlooked. It would likely be years before the donor passes away and the gift comes in. It's possible the IRA custodian sends out a check to the local branch with no other information.</p>
<p><b>In the Testamentary CGA, does the annuitant pay taxes on their annuity payments as you would with a regular CGA?</b></p>	<p>Yes, the annuitant will be taxed on their annuity payments. But unlike a lifetime CGA where the annuitant receives partially tax-free payments as a return of Basis, a T-CGA funded with pre-tax IRA dollars will cause all payments received by the eventual annuitant to be taxed as Ordinary Income, just like it would have been under the old Stretch IRA rules.</p>
<p><b>What does MOU stand for?</b></p>	<p>Sorry, Memo of Understanding.</p>

<p><b>Thank for the shout out! At Penn, we have always offered donors the option of redirecting payments from CGAs and CRTs as you've described. I've had several donors do this. But the Penn Impact Annuity (and Penn Impact Trust) we started promoting a decade ago takes this a step further - allowing the donor to make a current gift of the first few years of payments and take the FULL deduction at the time of funding the annuity/trust (not on an annual basis). This is helpful to donors "bunching" their deductions - and also to Penn for campaign counting purposes. As Bryan mentioned, I will be presenting this concept with my colleague, Greg Johnson, in a session on gift annuities at the CGP National Conference in September (virtually).</b></p>	<p>Penn has led the way with the Impact Annuity concept and done a wonderful job.</p> <p>NGAF has decided to keep it simple and not bunch the deduction for future annuity payments to the charity up front.</p>
<p><b>Do you post a calendar of upcoming workshops? I have a donor who I feel would benefit from the July one.</b></p>	<p>Not at this time. We decide webinar dates each month based on our calendars and then try to put out those dates at the end of the prior month. Our content is usually more advanced than most donors would care for and are aimed at nonprofit professionals who have a basic knowledge and understanding of planned gifts.</p>
<p><b>Is there any concern that the PLR approving a T-CGA arrangement won't be relied upon in subsequent cases?</b></p>	<p>You always run that risk when relying only on a PLR, but we are confident the rationale will prevail.</p>
<p><b>What if the amount remaining in the IRA falls below the minimum required to fund a CGA?</b></p>	<p>We would immediately pass the remainder of the new T-CGA to the charity designated by the donor.</p>
<p><b>Will you work with a car collection?</b></p>	<p>We can but tricky - those are tangible personal property and are under the vehicle rules. And it must be large enough to justify the added fees and administration to sell the collection to fund the CGA.</p>
<p><b>You might be getting to this---can you share gift minimums for some of these gifts that pass on to other charities?</b></p>	<p>For Charitable Solutions to be involved in receiving a non-cash gift of assets to be sold, the practical minimum to cover fees is \$200,000-300,000.</p>

<p><b>Since State Street bank handles most annuity programs for charities -- are they in the practice of handling these impact annuity structures already?</b></p>	<p>Doubtful, but you would have to ask them.</p>
<p><b>Can you fund the annuity with an IRA gift? Taxes?</b></p>	<p>Yes, to funding the T-CGA at death with IRA assets.</p> <p>No, to funding an Impact Annuity during life. Major tax problems would result.</p>
<p><b>What if Tom dies before the first five years are up? Does the charity just take part of residual amount and satisfy the pledge?</b></p>	<p>The charity is going to receive the full residuum in the CGA and can apply it however they see fit internally.</p>
<p><b>Is there a minimum amount that makes sense for an Impact Annuity?</b></p>	<p>None, other than the charity's minimum CGA issue rules will allow.</p>
<p><b>To clarify on the Impact Annuity, is the donor taxed on the annuity payment that is directed to the charity. In Johnne's example, would my \$2350 be taxed if directed to the charity or is it like an RMD distribution that decreases taxable income?</b></p>	<p>The annuity payment is taxed to the donor based on the type of funding used for the CGA. If cash was used, a major portion of each payment is considered to be tax-free to the annuitant until the reach life expectancy and have recovered their Basis. But each Annuity payment that is directed to the charity is then also considered as a direct cash gift to the charity, deductible by the donor who itemizes their deductions on Schedule A.</p>
<p><b>With the T-CGA, the CGA may be for a young person, thus the payout percentage would be low. Any solution?</b></p>	<p>Yes, put a deferral clause in the T-CGA contract and not allow payments to commence until the heir reaches age, 55, 60 or 65 and can use the annuity payments as a retirement income. This will also increase their payments.</p>
<p><b>When you have a testamentary CRT embedded in a living trust, how do you list the CRT on the IRA beneficiary designation form since the CRT is not funded yet and there is no EIN for the CRT?</b></p>	<p>Good question. I have always used a separate Testamentary CRT document held outside the living trust, which has its own EIN even though it is not funded until the death of the donor.</p>

<p><b>What if it takes a year or more for the custodian to forward the distribution? Should T-CGAs be written as deferred CGAs to buy the charity time to receive the funds?</b></p>	<p>That is our recommended solution for most donors who are naming their children or grandchildren as annuitants and will likely not be old enough to begin receiving annuity payments anyway.</p>
<p><b>Re: Testamentary CGAs...for organizations with a minimum age for an annuitant to start receiving payments, creating this option becomes viable when the annuitant is already at that minimum age, yes? (Otherwise, there will have to be exception granted to the policy.)</b></p> <p><b>Deferred-payment options are also a possibility, but there can be limits under institutional policy there, too.</b></p>	<p>Yes, if the heir is already beyond the minimum age for issue of a CGA at the death of the IRA owner, then no problem.</p> <p>If not, then a deferral clause in the T-CGA contract solves that problem.</p>
<p><b>What happens if the charity named no longer offers CGA at the time of donor's death where a T-CGA is created years earlier?</b></p>	<p>Hopefully, the charity would notify their donors when they no longer issue CGAs so the donor can then change their IRA beneficiary to another charity who does issue CGAs (like NGAF! 😊)</p>
<p><b>IRA to T-CGA: Is the charity required to set up the "Beneficiary IRA Account" to receive the IRA assets?</b></p>	<p>Hopefully not, especially now that Johni Hays is making progress with the RIFT project.</p>
<p><b>For testamentary CGA, still need a minimum % going to charity to qualify.</b></p>	<p>Yes, which again may require that a deferral provision be contained in the T-CGA contract to assure compliance with the 10% rule.</p>
<p><b>Is the Testamentary CGA rate based on the age of the donor at death or on the age of the annuitant?</b></p>	<p>The annuity rate will be based on the annuitant's age at the time of the IRA owner's death according to the ACGA rates in effect at that time.</p>

<p><b>What happens should the beneficiary outlives the life expectancy of the CGA and the IRA assets are exhausted?</b></p>	<p>In that event the annuity payments must continue to be funded by the issuing charity out of other assets just like any other CGA. That is why more charities are turning to NGAF to outsource their CGAs and place that risk on NGAF's shoulders instead.</p>
<p><b>Many financial institutions have a very limited space for beneficiary designations. Any suggestions on solutions to this problem?</b></p>	<p>See prior answers to this question.</p>
<p><b>What if the donor passes before the beneficiary reaches the appropriate age for a CGA for that charity's age requirements?</b></p>	<p>Using a deferral provision in the T-CGA contract solves that problem.</p>
<p><b>Do we wait until the annuitant is the minimum age? Ours is 60.</b></p>	<p>You answered it! Hopefully your T-CGA contract was written to allow you to wait until the annuitant reaches age 60 before payments from the T-CGA would commence.</p>
<p><b>What happens if the charity named in the testamentary gift annuity contract at the time of the donor's death no longer issues gift annuities?</b></p>	<p>Hopefully, the charity would notify their donors when they no longer issue CGAs so the donor can then change their IRA beneficiary to another charity who does issue CGAs (like NGAF! 😊)</p>
<p><b>For the T-CGA, or a traditional CGA, can the contract specify that payments to the annuitant are for a term of years, rather than lifetime?</b></p>	<p>CGA rates promulgated by the ACGA are based on life expectancies for one or two lives. Therefore, no rates are available for a term of years. You have to use a T-CRAT in that instance.</p>
<p><b>Crypto CGA: Do you need to get a PLR for this gift?</b></p>	<p>No.</p>
<p><b>How do you deal with the time lag between when the custodian of the IRA provider transfers the assets to the charity to fund the testamentary gift annuity? Sometimes this takes time after the death of the donor. Irrespective of the CGA beneficiary is there an in-built deferral of the first payment on this testamentary gift annuity?</b></p>	<p>At NGAF we are equipped to begin making annuity payments immediately to the annuitant out of our own funds and then get reimbursed when the IRA assets finally come in.</p>



<p><b>With a crypto CGA, how would you address potential drop in value from the funding date to liquidation date?</b></p>	<p>We trade it within an hour to limit that exposure.</p>
<p><b>The T-CGA only applies to IRA, correct, and not a 401K? And the language charity provides donor is listed on the beneficiary form with the custodian of the IRA? I assume you would likely list the charity as there may not be space for such language, but the charity would have documents on file regarding testamentary details.</b></p>	<p>The T-CGA concept can also apply to 401K plans as well if you can get the 401K Plan administrator to go along with the special Beneficiary Designation.</p>
<p><b>What value do you use for the testamentary gift annuity? Date of death value? Or actual distribution amount?</b></p>	<p>Actual distribution amount when received.</p>
<p><b>If a client-donor has a crypto holding and is currently concerned about estate tax, would that asset be a good choice for a zero-out CLT? IV or testamentary?</b></p>	<p>Probably not since a CLT is not a tax-exempt trust and therefore the funding asset would likely not be sold. Crypto produces no cash flow so you would have to liquidate small pieces in order to make the CLT payments to charity. Wrong asset to fund a CLT.</p>