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 "Charitable Remainder Trusts: Top Five Unique Conundrums and Solutions" <September, 2022>

Do you appraise interests in Entertainment residuals?	That IS an interesting asset. I'm quite certain we could, but it is such an unusual inquiry we would have to have one of our senior appraisers review it.
In your gift annuity program, do you interview the prospective donors or does the charity interact with all donors?	The charity handles all the interaction and paperwork/doc collection. It is clear that NGAF is the issuing charity be we strongly prefer the referring charity have all donor relations responsibilities.
From an IRS perspective, are there any risks or downside to the donor acting as the initial Trustee?	We cannot speak from the IRS perspective but, in general, the donor as trustee of a CRT will bear the same fiduciary duties as any trustee (and be held to the same standards)). As a practical matter, a donor/trustee will often use an agent for trust services, an independent trustee or qualified appraiser for illiquid assets, a CPA or other professionals to manage the CRT. When illiquid assets are involved, it is common for the donor to serve as the initial trustee but a charity or corporate "successor trustee" may take over once the illiquid assets are sold.
Can we gift C corp stock to CRT and have the Corp buy back the stock as a way to transfer to kids (prohibited member transaction)?	Yes, this is sometimes referred to as a "charitable bailout" (of accumulated cash in the corporation without the tax hit) and serves as a tax wise wealth transfer / charitable gift plan. A CRT can avoid the self-dealing rules by following the "corporate adjustment" exception of Sec. 4941(d)(2)(F). In short, all shareholders of C stock "in the same class" must receive the same buyback offer "subject to the same terms" at FMV.

If passthroughs from a limited partnership to a CRT would be UBTI, is gain on sale of the limited partnership interest also UBTI?	As a pass-through entity, any income or gain is traced to the source of income. If debt financed, ongoing trade or business, this will be 100% taxed as UBTI. However, if the gain is in a publicly traded LP / MLP, tax on the LTCG may be avoided with a charitable gift. The owner of the LP will receive a K-1 each year and there can be UBTI.
Does National Gift Annuity Foundation offer a Testamentary CGA as an alternative to a Testamentary CRT to receive retirement plan assets at the death of the donor which allows the heirs to "stretch" their taxable income over their lifetime instead of 10 years?	Yes we do. Testamentary CGAs and CRTs have been options for years but have become more attractive since passage of the SECURE Act and its less favorable "non-charitable" stretch options. The testamentary CRUT option for retirement accounts offers the potential for income growth over the years but a testamentary CGA may be attractive to some donors based on their age or other factors.
What is a dry trust?	A "dry" trust is a trust that is created but holds little or no assets until it receives substantial funding via future gifts, such as a bequest or beneficiary designation from a retirement account (IRA) or other source. It is important to review applicable state law to be sure a dry trust is allowed. If allowed, be sure it meets the required minimal funding (if any) and whether any trustee duties are necessary prior to full funding.
Regarding real estate, gifts of land are the example I usually hear about. What if you owned an apartment complex? Could you use rental payments to fund, or do you need to sell the property?	That is very possible, so long as you have plenty of room to make the payments. If CRT payments have to start, and you don't have enough liquidity, you would literally have to deed out fractional interests (unless it is a Net Income Trust of course). Remember the Trustee has a fiduciary duty to balance the interests of the income and remainder beneficiaries. Holding a single asset may also create market risks / liability for holding a single asset, as well as excess holdings concerns.
By splitting the gift 20% outright to charity and 80% to CRT was there a discount on the appraisal and the charitable deduction?	Depends on the appraiser but generally, yes, there would be a potential discount. We normally see it in the 5-10% range but we also use Put Options or other types of tactics (letter

	of unanimity as an example) to try to reduce control or marketability discounts. As an aside, it MAY be better to do an outright gift and a CGA - in that way, 100% of the interest is transferred to the charity (no discount) and then the CGA clearly provides a fixed income.
Paul said we should check if the donated asset is long term capital gain property. Are the tax benefits different if the property has short-term gain?	Short term is bad generally. Deduction is reduced to basis vs. FMV. I saw this A LOT with crypto outright gifts and CRT gifts last year (not this year). A number of donors bought the crypto in the spring and then sold in the fall. Sounds great but then they realized after the fact, that the deduction is basis. Most always, long term capital gain with the lowest cost basis is the Holy Grail of charitable planning - outright gifts or CRTs.
Thanks, Bryan. I have one right now that half the cost basis in real property was stepped up at a death in August 2022. Not sure if there is gain in it since then. Will the deduction be half the Qualified Appraisal and half the stepped-up cost basis?	No, it likely would just be the Qualified Appraisal value (FMV).
Is there a marketing opportunity for CRTs that your charity already serves as trustee for to accept retirement assets?	We have only been trustee on 4-6 CRTs a year (mainly for noncash assets where we resign to the successor trustee). With Paul and Phil joining, we hope to ramp this volume up including liquid funds for charities not wishing to serve as trustee. So perhaps more later than current. Also, we have done several testamentary CGAs with IRA assets as well as life insurance proceeds.
How is the income from a testamentary IRA CRT taxed to the income beneficiary?	All ordinary income.
Rather than have the donor terminate the CRT early, would it be better to set the initial trust up as a term of years?	If an illiquid asset is used to fund a CRT, a term of years may provide a larger deduction (if a younger income beneficiary) but may also hold the risk of the asset not selling within the term of years. Also, while the donor may be made aware of the opportunity to disclaim their income interest at a future date and receive another deduction, this should not be a prearranged.

In the case of a CRT created by donor through his life, and then income to child for a term, remainder to charity, can donor disclaim his interest to accelerate to son for the term of years-deduction is not an issue here.	A CRT income interest may only be disclaimed in favor of the charitable beneficiary. (even if viable, it would be a taxable gift to the son under IRC Sec. 2501(a)(1)).
In a bargain sale scenario where money is being put into a CGA, is the charity the one putting the money into the gift annuity?	If you are asking about a bargain sale of a CRT income interest, the money would be coming from the remaining CRT principal. This may be (1) a cash payment for less than the income beneficiary's remaining life income interest (appraised value) or (2) surrender of the CRT life income interest in exchange for a CGA, which is a "bargain sale" transaction.