

Using a Private Foundation to Stretch Family Control over Charitable Interests

Jeffrey D. Haskell, J.D., LL.M. (Taxation), Chief Legal Officer

Many families have either a charitable remainder trust (CRT) or a charitable lead trust (CLT). Although these trusts offer significant advantages for the family, providing tax savings and distributions back to the family while benefitting charities, they do have one inherent drawback: They cannot carry out a family's charitable intentions beyond their relatively short terms. **However, when a private foundation is established alongside either a CRT or CLT, the donor and the donor's family can receive all the usual benefits of these trusts while retaining family control over charitable giving—potentially forever.**

Let's take a closer look at charitable lead and charitable remainder trusts.

Charitable Lead Trusts: CLTs are primarily used to make charitable contributions while also creating the opportunity for tax-free gifts to family. In a CLT, the donor contributes assets to a trust that makes annual distributions to 501(c)(3) nonprofit organizations for a stated number of years. After this period of time, any remaining assets in the trust pass to the donor's family free of gift tax.

Charitable Remainder Trusts: In a CRT, the charitable and family interests are reversed: The donor contributes assets to a trust that makes annual distributions to the donor (or other individuals) for a stated number of years (or for the private beneficiary's life). After this period, any assets remaining in the trust pass to one or more charities. CRTs are primarily used to provide the donor with lifetime cash flow while obtaining a current charitable deduction from income tax.

The downside of CLTs and CRTs is that they have a limited lifespan. Although their trust instruments can be, and often are, drafted to allow the donor or the donor's family to control which charities will ultimately receive a charitable distribution from the trusts, that control is finite. In the case of a CLT, the control is limited to the term of the trust, which is usually 30 years or less. With a CRT, control is enjoyed only during the lifetime of the donor (or other private beneficiary).

Family control over CLT or CRT funds for charity does not have to end, however, if a CLT or CRT is combined with a private foundation. The trust instruments may be drafted to permit or require charitable distributions to the donor's private foundation so that the donor or the family can continue to control the charitable use of those funds for years to come. A CLT or a CRT can be used to fund a private foundation immediately, even if the term of the trust will not end for many years—there's no need to wait.

These following techniques can apply to both existing and newly created CLTs and CRTs. In some cases, even if an existing trust does not appear to permit distributions to a private foundation, it may be possible to modify the trust so that it does.

Example: CLT Stretch Using a Private Foundation

Upon his death five years ago, Chris donated \$1,000,000 to a CLT with a 20-year term. The trustees of the CLT (who are Chris's children) must pay out \$50,000 each year to charities that they select. This means that over the next 15 years, the remainder of the CLT's term, they will pay out a total of \$750,000. At the end of the term, any remaining assets in the CLT will pass to the children. As each annual distribution is made, however, \$50,000 of charitable dollars passes from the control of the family. The family would like to retain control over those charitable funds.

Solution: Instead of the CLT making distributions to unrelated public charities, the children can establish a private foundation now and have it make the distributions to their foundation. By the end of the CLT term, not only will the children enjoy the remainder of whatever's left in the CLT, but they will also have a private foundation funded with at least \$750,000 that they and their descendants can use to further their charitable giving objectives in perpetuity.

Example: CRT Stretch Using a Private Foundation

Ten years ago, Pat created a CRT, which will make payments to her for life and then pass to one or more charities to be named by her. It is projected that the remainder value of the CRT at the time of Pat's death will be approximately \$750,000. If Pat does name those unrelated public charities as the remainder beneficiaries, those charities will receive \$750,000 (or the actual remaining funds in the CRT) at her death, and her family will lose control over how those funds are distributed. After giving the matter some thought, she's decided she would prefer to have her family control those funds after her death or perhaps to have that control start immediately.

Solution 1: Pat can create a private foundation and name the foundation as the charitable remainder beneficiary of her CRT. The foundation will be funded with the remaining assets of her CRT at the time of her death, approximately \$750,000. Pat's family can control those charitable assets in the foundation forever.

Solution 2: Pat can create a private foundation, name the foundation as the charitable remainder beneficiary of her CRT, and then donate the balance of her lifetime interest to the foundation. This will "merge" the life and remainder interests, resulting in immediate termination of the CRT. The \$750,000 of assets now in the CRT will immediately pass to her foundation where those assets can be used to support the family's charitable objectives for many generations (and Pat will be able to claim an income tax deduction for the value of her donated life interest).

Next Steps

Those who have either an existing CRT or a CLT, and are interested in combining it with a private foundation, can learn more about the unique capabilities of a private foundation through Foundation Source, the nation's largest provider of comprehensive support services for private foundations. Foundation Source can establish a private foundation in less than a week, and it can be funded with a minimum \$250,000. Because CRTs and CLTs are subject to unique regulations and requirements, we recommend a consultation with a trusts and estate attorney who can successfully combine an established trust with a new private foundation.

Foundation Source acknowledges the assistance of Charles Fayerweather of Hemenway and Barnes in preparing this article.

About Foundation Source (www.foundationsource.com)

Foundation Source is the nation's largest provider of comprehensive support services for private foundations. The company's administrative services, online foundation management tools, and philanthropic advisory services provide a complete outsourced solution, including the creation of new foundations. Our clients supply the vision; we provide everything else.

Now in our second decade, Foundation Source provides its services to more than 1,200 family, corporate, and professionally staffed foundations, of all sizes, nationwide. We work in partnership with wealth management firms, law firms, and accounting firms, as well as directly with individuals and families. Foundation Source is headquartered in Fairfield, Connecticut, with offices in Atlanta, Boston, Chicago, Los Angeles, New York City, Philadelphia, San Francisco, Seattle, South Florida, and Washington, D.C.



55 Walls Drive
Fairfield CT, 06824
800.839.0054
www.foundationsource.com

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