

DRAKE, HILEMAN & DAVIS, P.C.

**BAILIWICK OFFICE CAMPUS, SUITE 15
P.O. BOX 1306
DOYLESTOWN, PA 18901-1306**

**Telephone Number: (215) 348-2088
Email Address: ldavis@dhdllaw.com**

THE CHARITABLE REMAINDER UNITRUST

By: R. Leonard Davis, III, Esquire

Many aspects of tax and estate planning law are in a tremendous state of flux in 2009. It remains to see how all of these issues are resolved by Congress later this year. However, one estate planning device that is still as relevant and valuable as ever, and which combines the best aspects of federal estate tax planning and charitable giving, is known as the “Charitable Remainder Unitrust.”

Use of this estate planning tool is indicated where an individual or couple is confronted with a federal estate tax burden, they hold appreciated assets, and they are interested in helping charities.

Suppose John has an estate of over \$3,500,000. He purchased investment real estate 30 years ago for \$50,000 that, despite subsequent real estate market fluctuations, is now worth \$600,000. If John sells the property now, he will be hit with a huge capital gains tax on the gain of \$550,000, but if he leaves it in his estate, his estate will be subject to federal estate tax on the entire amount. He feels trapped no matter what he does. What should he do?

John could transfer the investment real estate into a Charitable Remainder Unitrust, which will pay him an income from the real estate for the rest of his life, and on his death (or on the subsequent death of another one of his family members) give the real estate or its proceeds to the charity of his choice. John can either give the trustee permission to sell the real estate during his life, or can instruct the trustee to hold the real estate in its current form for as long as he lives. However, even if the real estate is sold at its fair market value during John's life, it will not be subject to any capital gains tax. In addition, John will receive a charitable deduction which will be applied against current income in the year that the gift is made, and during subsequent years (up to five) by virtue of the loss carry forward provisions.

Sometimes clients combine this powerful estate planning tool with another one, the Irrevocable Life Insurance Trust. By using the Irrevocable Life Insurance Trust, John not only receives all of the benefits described above by using the Charitable Remainder Unitrust, but also replaces the value of the asset given to charity with life insurance, and those proceeds are

distributed to his beneficiaries without the payment of any capital gains tax, income tax, or federal estate tax. Amazing, but true!

To summarize the *benefits* of a **Charitable Remainder Unitrust**:

1. Appreciated property can be transferred without the payment of any capital gains tax.
2. Property will ultimately be distributed to charity without the payment of any federal estate tax.
3. The donor (you) will receive a guaranteed income for life.
4. You will obtain a charitable income tax deduction for a portion of the gift (based on IRS tables).

* * * * *

Please call or email us if you are interested in discussing or setting up a Charitable Trust. We have many years of experience advising clients regarding all kinds of Charitable Trust and charitable gifting plans.