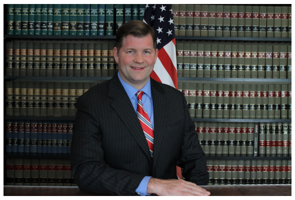

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Flip Charitable Remainder Unitrust (Flip-CRUT)

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What is a Flip-CRUT?

A Flip-CRUT is a net income unitrust (either a net income with makeup charitable remainder unitrust (NIMCRUT) or a net income charitable remainder trust (NI-CRUT)) that switches to a standard charitable remainder unitrust (CRUT) upon a triggering event or date.

A standard CRUT is a trust that makes payments to a non-charitable beneficiary(ies) for a term of years or a lifetime(s) then distributes the remainder to a charity. Payments to the non-charitable beneficiaries are a percentage of trust assets as computed each year, and must be paid from income earned by the trust or, if necessary, from trust principal. As such, standard CRUTs are typically funded with income-producing property, and the trustee's ability to grow the principal is limited.

Example(s): *John's CRUT pays out 5 percent of trust assets each year. On January 1, the value of the trust is $1 million. During the year, the trust earns $30,000. On December 31, the trust distributes $50,000 to John ($30,000 from earnings and $20,000 from principal).*

A NI-CRUT pays the lesser of a percentage of trust assets or the trust's net income; the trust is not allowed to distribute principal. If no income is earned, no payments are made to the beneficiaries. This allows the trust to be funded with non- or low-income-producing property, giving the trustee greater flexibility regarding how trust assets are invested.

Example(s): *John's NI-CRUT pays out the lesser of 5 percent of trust assets each year or net income. On January 1, the value of the trust is $1 million. During the year, the trust earns $1,000. On December 31, the trust distributes $1,000 to John.*

A NIMCRUT (sometimes called a spigot trust) is a NI-CRUT with a make-up provision. That is, the trust pays the lesser of a percentage of trust assets or the trust's net income, and the trust is not allowed to distribute principal, but the trust is allowed to distribute additional income in later years to make up for years in which the net income paid out was less than the specified percentage of trust assets. This gives the trustee the flexibility of the NI-CRUT and the ability to provide income to the beneficiaries when it is needed (e.g., at retirement).

Example(s): *John's NIMCRUT pays out the lesser of 5 percent of trust assets each year or net income. On January 1 of Year 1, the value of the trust is $1 million. During Year 1, the trust earns $1,000. On December 31 of Year 1, the trust distributes $1,000 to John, leaving a deficit of $49,000. On January 1 of Year 2, the value of the trust is $1 million. During Year 2, the trust earns $70,000. On December 31 of Year 2, the trust distributes $70,000 to John (5 percent of trust assets, or $50,000, plus $20,000 to make-up a portion of the deficit from Year 1).*

The problem with NI-CRUTs and NIMCRUTs is that they are stuck with their net income limitation provisions.

Example(s): *John's NI-CRUT is funded with non-income-producing assets valued at $1 million and pays out the lesser of 10 percent of the trust assets each year or net income. Over several years, the assets appreciate, but no income is earned and John receives no payments. John retires and wants steady income from the trust. In January 1 of Year 1 of John's retirement, the value of the trust, now holding some income-producing assets, is $3 million. During Year 1, the trust earns $140,000. On December 31 of Year 1, the trust distributes $140,000 to John. If the NI-CRUT were a standard CRUT, John would have received $300,000.*

A Flip-CRUT solves this dilemma by allowing the trust to convert to a standard CRUT when a certain target is met.

Caution: *A NIMCRUT or a NICRUT can flip to a standard CRUT; no other type of flip is permitted. Additionally, when a NIMCRUT flips, make-up payments for any deficits that remain are forfeited.*

Why use a Flip-CRUT?

Flip-CRUTs are often used by donors who want to give charitable gifts of appreciated, hard-to-market or illiquid assets (e.g., real estate, closely held stock), but do not want to be locked into a NI-CRUT or NIMCRUT. (Flip CRUTs can, however, be funded with any type of asset that can fund a standard CRUT.) Flip-CRUTs are also used by donors who won't need trust income until sometime in the future, and want to maximize returns on trust assets.

What are the requirements for a valid Flip-CRUT?

The IRS has established several requirements a Flip-CRUT must meet in order to gain favorable tax treatment:

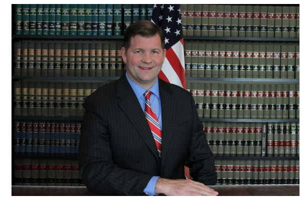
- The unitrust percentage must stay the same after the flip
- The flip must be triggered by a specified date or event (see Permissible triggering events below)
- The flip must be from a NI-CRUT or NIMCRUT to a standard CRUT
- The trust may flip only once
- The flip becomes effective on January 1 of the year following the year in which the triggering event occurs
- The trust must state that any make-up payments remaining at the time of the flip are forfeited

Permissible triggering events

Triggering events must be outside the control or discretion of the donor, trustee, non-charitable beneficiary, or any other person. Events not permitted include the sale of marketable assets and a beneficiary's request. Permissible events include:

- The sale of "unmarketable assets" (even though the trustee may have some control over this)
- A specific date
- The marriage, divorce, or death of a non-charitable beneficiary
- The birth of a child by a non-charitable beneficiary
- The attainment of a specified age by a non-charitable beneficiary

IMPORTANT DISCLOSURES This presentation is not intended to and does not provide investment, tax, legal, or retirement advice or recommendations. The information presented here is not specific to any individual's personal circumstances. To the extent that this material concerns tax matters, it is not intended or written to be used, and cannot be used, by a taxpayer for the purpose of avoiding penalties that may be imposed by law. Each taxpayer should seek independent advice from a tax professional based on his or her individual circumstances. These materials are provided for general information and educational purposes based upon publicly available information from sources believed to be reliable — we cannot assure the accuracy or completeness of these materials. The information in these materials may change at any time and without notice.



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