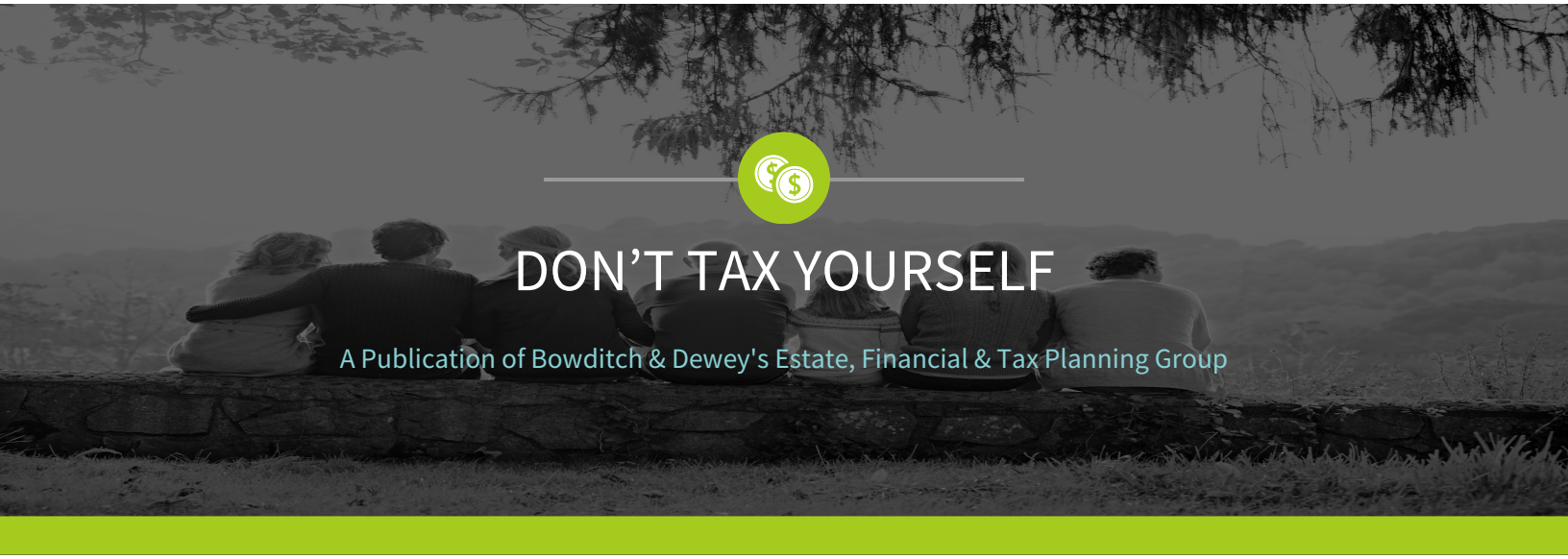


DON'T TAX YOURSELF

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Extension of CARES Act Incentives Relating to Charitable Giving: Planning with a Charitable Unitrust Remainder (CRUT)

BY BOWDITCH & DEWEY • AUGUST 20, 2021

By using a Charitable Unitrust Remainder (CRUT), philanthropic-minded donors can gift to a charitable cause while maintaining a lifetime benefit. A CRUT is an irrevocable agreement that will provide an income stream to the donor or a named beneficiary for life or a term of years. At the end of this period, the trust will pay the remainder to a designated charity, donor-advised fund, or private foundation.

A CRUT pays a fixed percentage of at least 5% of the trust's value to the income beneficiary, which is redetermined annually. That means that the payout from a CRUT is adjusted each year as the value of the trust assets go up or down.

Various assets such as cash, stock, securities, real estate, and even artwork can be funded to a CRUT. Certain assets like shares in a S corporation are rarely funded to a CRUT in order to avoid jeopardizing S corporation status. Also, a CRUT can accept additional contributions after the initial funding of the trust.

A CRUT is an excellent vehicle for gifts of appreciated stock or property because the trust is tax-exempt and does not pay capital gains tax on the sale of assets. The full sales proceeds remain in the trust to provide a payout to the income beneficiaries, which is generally taxable to them.

One benefit of a CRUT is that the donor will receive an income tax deduction in the year the trust is funded. This deduction is based on the present value of the interest that will pass to the charity in the future. If the CRUT is funded with cash, the donor can claim a charitable deduction of up to 100% of Adjusted Gross Income (AGI) in 2021, with the extension of the charitable contribution provisions of the CARES Act (typically the limit is 60%) Furthermore, if the donor cannot use the whole deduction in the year the trust is funded, the deduction may be carried forward for five years.

A CRUT can be designed for the particular asset being gifted to the trust. There are two variations to a standard CRUT:

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- A Net Income Unitrust CRUT (NIMCRUT): This is ideal for assets that have variable levels of income each year (e.g. real estate) because the trust is designed to pay out the lesser of a stated percentage or the actual income earned by the trust.
- A “Flip” CRUT: This allows the donor to contribute an asset earning little or no current income (e.g. a family business interest) to the trust, secure an immediate charitable deduction, and structure the payout at a later date when the original assets are sold and reinvested.

For more information, please contact the alert author or your Bowditch attorney at 508-791-3511.

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