

**CONFIDENTIAL CHARITABLE REMAINDER TRUST QUESTIONNAIRE**  
**RUSHFORTH LEE & KIEFER LLP**  
 A NEVADA LIMITED-LIABILITY PARTNERSHIP

**1. CLIENTS**

CLIENT #1		CLIENT #2		MAILING ADDRESS	
Full Name (as it appears on legal documents)  [ ] -Not US citizen		Full Name (as it appears on legal documents)  [ ] -Spouse of client #1 [ ] -Not US citizen			
Name (as you want it in your documents)  [ ] -Settlor; [ ] -Income Beneficiary		Name (as you want it in your documents)  [ ] -Settlor; [ ] -Income Beneficiary			
Birth Date		Birth Date			
Social Sec. #		Social Sec. #			
Internet e-mail address:	Work Phone:	Internet e-mail address:	Work Phone:	Home Phone:	Fax:

**2. CHARITABLE BENEFICIARIES.** (Provide the legal name, address, and tax identification number for each beneficiary. Attach additional sheets if necessary.)

LEGAL NAME / TAX IDENTIFICATION NUMBER	IRREVOCABLE? (Are you giving up the right to change?)	ADDRESS AND PHONE	PERCENTAGE OR OTHER FRACTION
	Y N		
	Y N		
	Y N		
	Y N		
<b>Survivor:</b> Survivor may change beneficiaries as to _____%.			
<b>Check one:</b> [ ] -Charitable beneficiaries are limited to 50% charities (e.g., public charities). [ ] -Charitable beneficiaries can include 30% charities (e.g., private foundations).			

**3. TRUSTEES.** (Include name, address & phone.)

CAPACITY	INITIAL TRUSTEE	SUCCESSOR #1	SUCCESSOR #2
TRUSTEE (To manage trust assets)			

**4. QUESTIONS.**

- a. Trust payments may be calculated as a percentage of either (i) the initial value of assets at the time of contribution or (ii) the annual valuation of assets (which means that the payments to the income beneficiary will go up if assets appreciate and will go down if assets depreciate). Which do you want?  
 -Based on initial value (CRAT);  -Based on annual valuation (CRUT).
- b. Are additional contributions to the trust desired?  
 -Y;  -N [NOTE: A CRAT cannot permit additional contributions.]
- c. If a CRUT is used:
- i. Should distributions to the income beneficiary be limited to trust income so that the original principal is never spent?  
 (1)  -Income only;  
 (2)  -Principal if income is insufficient. If limited to income, should this change (“flip”) after a period of years or when non-income producing property is sold?  -Y;  -N
- ii. If the trust has insufficient income to make the full payment for that year, should the trust include a “make-up clause” that allows income in a future year that exceeds that year’s payment to be paid to make up the deficiency for prior year?  -N;  -Y (NIMCRUT). [NOTE: If you check Y, the make-up provision will be cancelled if the trust “flips” from an income-only trust to an income-then-principal trust.]

**5. ADDITIONAL INFORMATION.**

<b>Name of Charitable Trust</b>		
<b>Unitrust or Annuity Percentage</b>		Post contribution capital gain included as income? <input type="checkbox"/> -Y (default); <input type="checkbox"/> -N
<b>Term of Trust</b>	<input type="checkbox"/> -Term of ____ years; <input type="checkbox"/> -Until death of sole Settlor; <input type="checkbox"/> -Until death of surviving Settlor (or surviving client); <input type="checkbox"/> -Until death of each settlor as to half.	
<b>Community or separate property?</b>	<input type="checkbox"/> -All separate; <input type="checkbox"/> -All community; <input type="checkbox"/> -Some of each.	
<b>Trust Assets to be Contributed</b>	Fair-Market Value: \$	Cost Basis: \$
<b>Estimated Annual Income</b>	Currently: \$	After any anticipated sale: \$
<b>Estimated Capital Appreciation</b>	Currently: \$	After any anticipated sale: \$
<b>Referred by</b>		

**6. FOR OFFICE USE ONLY.**

<b>Type of Trust (Check all that apply)</b>	<input type="checkbox"/> -CRUT (annual valuation) or <input type="checkbox"/> -CRAT (initial valuation; no additions). If CRUT, is it a <input type="checkbox"/> -NIMCRUT or <input type="checkbox"/> -NIMCRUT/Flip? If NIMCRUT, explain trigger for flip: <input type="checkbox"/> -Sale of asset; <input type="checkbox"/> -After ____ years; Other:
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ENGAGEMENT:                      Base Fee \$                                      Retainer Fee \$

## GUIDELINES FOR COMPLETING THE QUESTIONNAIRE

### A. CLIENTS

- A.1 Under "Full Name" indicate your full name.
- A.2 Below that, put your name as you want it in the documents. Most clients put their name as they normally sign it on legal documents.
- A.3 Your social security number is optional unless we are going to obtain a tax identification number for the trust.
- A.4 Do not put an e-mail address unless you check it regularly and are willing to allow us to send you correspondence and documents to that address.
- A.5 If the income beneficiary or beneficiaries are not the client(s) who will be the settlor(s) [i.e., creator(s)] of the trust], attach a separate sheet with the name and birth date of each income beneficiary.

### B. CHARITABLE BENEFICIARIES

- B.1 To avoid confusion about the identity of each charity, we need the charity's full legal name and tax ID number.
- B.2 You will have the right to change charities unless you give up that right by making a designation irrevocable. (People usually make an irrevocable beneficiary designation only if the charity is paying for the creation of the trust.)
- B.3 You can choose to restrict the charities to public charities (50% charities) or you can allow private foundations (30% charities). This selection will determine how much of a deduction that can be taken each year. Since the charitable deduction can be taken over six years, a charitable deduction of \$500,000 could be taken in full by a taxpayer who has adjusted gross income ("AGI") of \$200,000 each year, but a deduction of only \$360,000 could be taken if 30% charities are permitted beneficiaries (even if the selected charities are actually 50% charities). **IMPORTANT NOTE:** *There are special rules on deduction limits when appreciated property is being donated, and you should discuss the tax impact of contributing specific property with your certified public accountant before creating a charitable trust.*
- B.4 The type of CRUT desired is important.
  - (a) A **standard CRUT** pays a fixed "unitrust percentage" (at least 5%) a year, first from income and then from principal. If the trust assets currently generate income that the income beneficiary will require even in low-income years, this should be your choice. Unless assets are appreciating, the amount of income will dwindle because this type of trust erodes the principal, and the distributions are a percentage of the trust's value.
  - (b) An **income-only CRUT** pays the lesser of actual income or the fixed unitrust percentage each year. This type of trust preserves the principal, but distributions will be low in low-income years.
  - (c) A "**NIMCRUT**" is an income-only CRUT that includes a "make-up" provision that allows income in excess of the unitrust percentage for one year to be distributed to make up deficiencies in prior years.
  - (d) A "**flip CRUT**" is an income-only CRUT or a NIMCRUT that converts into a standard CRUT when a triggering event occurs. The "triggering event" is usually the sale of property that does not produce income, but it can also be after a specified number of months or years.
- B.5 The name of your trust should ideally be brief, such as "J. Dough 2017 Charitable Trust".
- B.6 The unitrust or annuity percentage must be at least 5%. If the percentage is higher, the charitable deduction will be lower.
- B.7 Post-contribution capital gain can be considered distributable income, and we recommend that approach for a net-income trust or a NIMCRUT unless your certified public accountant advises otherwise.
- B.8 The term of the trust can be for the income beneficiary's lifetime or for a term of up to 20 years.
- B.9 The dollar amounts asked for are important only if you wish us to prepare a financial illustration of the trust's anticipated deductions, distributions, and growth.

### C. ONCE THE TRUST IS SIGNED:

- C.1 A tax identification number for the trust should be applied for by the trustee, the settlor's certified public accountant, or our office.
- C.2 Assets need to be formally transferred to the trust, by change of ownership, by assignment, or by deeds (as to real property). Deeds conveying out-of-state real property should be done by an attorney licensed in the appropriate state (or through the services of uDEED – <http://www.udeed.com/order.aspx>). If a charitable remainder annuity trust is being created, asset transfers can only be done at the time of the trust's creation because additional contributions are not permitted.
- C.3 A gift tax return (IRS Form 709) and a split-interest trust information return (IRS Form 5227) must be filed on April 15 of the year following the creation of the trust. The individual income tax return (1040) for the settlor(s) will reflect the deduction for the remainder interest, but the 50% or 30% limitation will put a ceiling on how much income can actually be reduced.