



The Beacon

A Newsletter from the Law Offices of Boyd & Boyd, P.C.

January 2008

INCREASE YOUR INCOME DECREASE YOUR TAXES

with Charitable Remainder Annuity Trusts

Often we find a client is hesitant to sell an asset that just isn't providing an adequate return. Concerns over Capital Gain Taxes may act as an additional factor which discourages converting the investment to a more productive one. In either case, a Charitable Remainder Annuity Trust (CRAT) can be the perfect solution.

Here are some examples¹:

John, age 75, and Mary, age 72, have an investment portfolio which includes \$100,000 of CD's. Currently the CDs pay 4% APY. By creating a CRAT and contributing the CDs to it, John and Mary can increase their APY to 6.956%. They will also get a charitable income tax deduction of more than \$27,800 which they can carry forward if they cannot use it all in the year they contribute to the CRAT. Additionally, if John and Mary had a taxable estate, they have reduced the tax exposure of their estates by at least \$100,000, thereby saving at least \$45,000 in US death taxes. (Continues on Pg 2).

¹ These examples assume annual payments made at the end of each year and a § 7520 rate of 5%. Section 7520 rates are set each month by the IRS. December's rate was 5%, January's rate was 4.4%. Payments may be made more frequently and either at the beginning or the end of the period, but the yield will change accordingly.

FYI

Many clients have asked us for extra copies of our last issue of "The Beacon" concerning the **IRA Inheritance Trust™**. If you would like extra copies for family and friends, please call the office at (508) 775-7800. We will be happy to mail or e-mail you as many copies as you may need.



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2 Jack, age 79, and Jill, age 79, hold stock in their trust owned brokerage account. One particular holding has a current market value of \$250,000 and a cost basis of \$50,000. A sale of this stock will result in a Capital Gains Tax of \$30,000. Additionally, the stock was yielding a dividend of only 2.5%. By contributing the stock to a CRAT the sale can be made and entire proceeds may be reinvested without loss due to Capital Gains Tax. In this example the CRAT will yield 7.79% on the full \$250,000. It increases their income and gives Jack and Jill a charitable income tax deduction of more than \$83,000.

3 Sue is 77 years old and has a dividend reinvestment account, or DRIP, currently worth \$65,000. She has not tracked her cost basis and was planning to leave the DRIP to her niece. Sue expected her niece would be able to take a step up in basis upon Sue's death. However, Sue has recently learned that step up in basis is scheduled to be repealed at the end of 2009. So she instead creates a CRAT and contributes the DRIP account to the CRAT. The CRAT may sell the underlying stock investment and not have to recognize the capital gain (thereby eliminating the problem of not knowing her basis). Sue will now receive an income of over \$5,200 per year which she may use to pay for life insurance to replace the gift she planned to leave to her niece. Sue will also get a charitable income tax deduction of more than \$27,000.



When a charitable remainder annuity trust is established, a gift of cash or property is made to an irrevocable trust. The donor (and/or another non-charitable beneficiary) retains an annuity (fixed payments of principal and interest) from the trust for a specified number of years or for the life or lives of the non-charitable beneficiaries. At the end of the term, the qualified

charity specified in the trust document receives the property in the trust and any appreciation.

Most gifts made to a charitable remainder annuity trust qualify for income and gift tax charitable deductions (or in some cases an estate tax charitable deduction). A charitable deduction is permitted for the remainder Interest gift only if the trust meets certain criteria. A trust qualifies as a charitable remainder annuity trust if the following conditions are met:



~ The trust pays a specified annuity to at least one non-charitable beneficiary who is living when the trust is created. Annuities can be paid annually, semiannually, quarterly, monthly, or weekly.

~ The amount paid, as an annuity, must be at least 5%, but less than 50% of the initial net fair market value of the property placed in the trust. The charity's interest at inception also must be worth at least 10 percent of the value transferred to the trust.

~ The annuity is payable each year for a specified number of years (no more than 20) or for the life or lives of the non-charitable beneficiaries.

~ No annuity is paid to anyone other than the specified non-charitable beneficiary and a qualified charitable organization.

When the specified term ends, the remainder interest is transferred to a qualified charity or is retained by the trust for the use of the qualified charity. The Internal Revenue Service has also ruled that a trust is not a charitable remainder annuity trust if there is a greater than 5% chance that the trust fund will be exhausted before the trust ends. The annuity paid must be a specified amount expressed in terms of a dollar amount (e.g., each non-charitable beneficiary receives \$500 a month) a fraction, or a percentage of the initial fair market value of the property contributed to the trust

(e.g., beneficiary receives 5% each year for the rest of his life).

The grantor will receive an income tax deduction for the present value of the remainder interest that will ultimately pass to the qualified charity. Government regulations determine this amount, which is essentially calculated by subtracting the present value of the annuity from the fair market value of the property and/or cash placed in the trust. The balance is the amount that the grantor can deduct when the grantor contributes the property to the trust.

**For More Information Contact
The Law Office of Boyd & Boyd, P.C.
508-775-7800**

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(508) 775-7800 Tel.
(508) 775-5666 Fax



Meet the Attorneys



Attorney F. Keats Boyd, Jr., graduated cum laude from Holy Cross College, and received his doctorate in law from Stanford University. He is admitted to the bar in Massachusetts, the US District Court of Massachusetts, the US Court of Appeals, and Supreme Court of the United States. His legal experience has earned him listings in "Who's Who in American Law" and the "Bar Register of Preeminent Lawyers", as well as the highest professional and ethical rating in Martindale-Hubbell's National Directory of Lawyers. He is a member of the American Bar Association, the ABA Section on Probate and Real Property, the Greater Boston Estate Planning Council, the Estate Planning Council of Cape Cod, and the National Association of Estate Planners.



Attorney F. Keats Boyd, III, is also a graduate of Holy Cross College. After serving in the US Air Force as a Captain he received his doctorate cum laude from Suffolk University Law School. He is admitted to the bar in Massachusetts, the United States Tax Court, the US District Court of Massachusetts, the First Circuit Court of Appeals, and the U.S. Supreme Court. He is also a member of the Massachusetts Bar Association, Barnstable Bar Association, National Academy of Elder Law Attorneys, Inc. (NAELA™) and MBA Probate Law Section, the National Committee on Planned Giving, the Estate Planning Council of Cape Cod and the Planned Giving Council of Cape Cod. Recently, he has been listed in the AARP™ Legal Services Network. He frequently appears as a guest on the radio show “Something More with Chris Boyd” on WXTK 95.1 FM. His article “10 Steps for Your Estate Plan Before Year’s End” was published in Nov/Dec issue of Cape Business’ Health & Wealth Supplement.