How to Minimize Taxes in the Greatest Wealth Transfer in History

We are entering the largest wealth transfer the world has ever seen.

Over the coming decades, the Baby Boomer generation will transfer tens of trillions of dollars to heirs, charities, and institutions—both in the United States and globally. This unprecedented shift of wealth presents an extraordinary opportunity, but also a significant risk: **unnecessary taxation due to inadequate planning.**

It is critical that professional advisors proactively guide clients through strategies that preserve wealth, reduce taxes, and protect family legacies. The purpose of this article is to highlight one of the most powerful—but underutilized—tools available to accomplish that goal: the **Charitable Remainder Trust (CRT),** also known as a **Capital Gains Bypass Trust.**

1. What Is a Charitable Remainder Trust—and How Does It Work?

The Charitable Remainder Trust (CRT) was introduced into the Internal Revenue Code in 1964. Having used these vehicles extensively in my CPA practice for more than 45 years, I often refer to them as **Capital Gains Bypass Trusts**—a term our firm has used for over 25 years and later trademarked.

A Capital Gains Bypass Trust is an irrevocable trust established by the owner of a highly appreciated asset prior to its sale. These trusts are commonly used for:

- Real estate
- Closely held business interests
- Publicly traded securities
- Cryptocurrency
- Other appreciated assets

When structured properly and funded before an irrevocable offer to purchase is accepted, the trust can sell the asset **without triggering immediate capital gains tax.**

However, the rules governing CRTs are strict and must be followed carefully. While not exhaustive, some of the most important requirements include:

- The trust must be legally established before an offer is accepted

- A qualified analysis must demonstrate that **at least 10%** of the trust's fair market value will pass to charity at termination

- The trust term must be either:
  - One or more lives in being, or
  - A fixed term of **20 years or less**
- The transferred asset **cannot carry debt**
- A **licensed appraisal** is required to determine fair market value at contribution

When properly implemented, these trusts can dramatically reshape the tax outcome of a major asset sale.

2. The Benefits of Capital Gains Bypass Trusts

Establishing a CRT before selling an appreciated asset can produce multiple, layered benefits. Among the most significant are:

a. Capital Gains Tax Avoidance & Estate Reduction

The trust can sell the asset without immediate capital gains tax and removes the asset from the donor's taxable estate—resulting in potential tax savings of **up to 48%** in high-tax environments.

b. Asset Protection

Assets inside the trust are generally shielded from lawsuits against the grantor—often providing stronger and simpler protection than offshore alternatives.

c. Immediate Income Tax Deduction

The donor receives a charitable income tax deduction based on the present value of the remainder interest passing to charity. This deduction is influenced by the donor's age, payout rate, and prevailing IRS AFR rates.

For example, assuming:

- $1,000,000 contribution
- 5% payout rate
- Current AFR

Estimated deductions may be approximately:

- Age 55: $207,480
- Age 60: $258,260
- Age 65: $319,250
- Age 70: $390,790
- Age 75: $472,320

d. Lifetime Income Stream

The trust pays income to the designated beneficiaries—typically for life—at a minimum rate of 5% of the trust's annually determined fair market value. Income taxation follows a favorable four-tier system that can significantly benefit recipients depending on trust investment performance.

e. Wealth Replacement for Heirs

Many families use a portion of the tax savings to fund life insurance outside the trust—effectively replacing the value that ultimately passes to charity and preserving family inheritance.

3. The Six Critical Decisions in Establishing a CRT

Although CRT documents are lengthy and complex, the planning process ultimately comes down to **six key decisions:**

1. Type of Trust

After 45 years of designing and administering these trusts, I most often recommend a **NIMCRUT (Net Income with Make-Up Charitable Remainder Unitrust).**

This structure pays the lesser of:

- The stated payout percentage, or
- Actual income earned

Unused income can "carry forward" to future years, providing flexibility when income is not immediately needed. Other options include standard unitrusts and annuity trusts, which may be appropriate in specific circumstances.

2. Trust Term

The trust may last:

- For one or two lifetimes
- For a fixed term of up to 20 years
- Or a combination of both

3. Payout Percentage

Lower payout rates generate larger charitable deductions. The maximum allowable payout is constrained by IRS rules requiring at least 10% to remain for charity at trust termination.

4. Charitable Beneficiaries

Charities may be changed over time. Many donors name a **Donor-Advised Fund (DAF)** to retain flexibility in charitable giving.

5. Definition of Income

Advanced trusts may include “post-contribution capital gains” in the income definition—an important but technical strategy that often warrants its own discussion.

6. Trustee Selection

Grantors often serve as their own trustees initially, with a successor trustee—such as a bank, financial institution, family member, or professional advisor—named for continuity.

4. Finding the Right Professional Advisors

CRTs require coordination among CPAs, attorneys, investment advisors, and insurance professionals. Several respected professional organizations provide access to qualified specialists, including:

- **Kingdom Advisors** — www.kingdomadvisors.com
- **National Association of Estate Planning Councils** — www.naepc.org
- **Charitable Gift Planners** — www.charitablegiftplanners.org
- **Society of Trust and Estate Practitioners** — www.step.org
- **Advisors in Philanthropy** — www.advisorsinphilanthropy.org
- **American Institute of Certified Public Accountants** — www.aicpa.org
- **Exit Planning Institute** — www.exit-planning-institute.org

Final Thoughts

As trillions of dollars move from one generation to the next, **Charitable Remainder Trusts remain one of the most effective tools available** for reducing taxes, preserving income, protecting assets, and creating meaningful charitable impact.

One of my greatest frustrations after 45 years in this field is how often licensed financial professionals **fail to introduce this concept** when discussing large asset sales or estate planning with their clients. My hope is that this article serves both as a reminder and a call to action.

If you have questions or would like to explore whether a Capital Gains Bypass Trust may be appropriate for your situation, please feel free to reach out at **cmclucas@ctai-ca.com**