

## CHARITABLE LEAD TRUSTS

1. *In General:* A Charitable Lead Trust ("CLT") is a type of trust under which the charitable beneficiary receives an annual payment for a designated term and the non-charitable beneficiaries receive the remainder of the property in the trust at the end of the charitable term. The term of the charitable interest can be a set number of years or for the life or lives of designated individuals. The interest of the charitable beneficiary can either be defined as a fixed annuity amount ("Annuity Trust") or as a fixed percentage of an annually reappraised value trust ("Unitrust").

2. *Estate or Gift Tax Consequences:* Upon the establishment of a CLT, the Donor will be deemed to make two gifts: one for charity (the "Income Interest") and one to the Donor's family (the "Remainder Interest"). The amount of the gift to the Donor's family equals the difference between the value of the assets contributed to the CLT and the present value of the payments to the charitable beneficiary. The present value of the payments to charity depends upon the length of the charity, the amount of the payment that the charity receives, the frequency of payments, the length of time from the first such periodic payment, and the applicable federal mid-term rate. While the gift to charity is tax-free, the gift to the Donor's family is subject to estate or gift tax. However, the amount subject to gift tax is only a fraction of the amount that will eventually be received by the Donor's family. This leveraging of the amount of property that can be distributed to the Donor's family in excess of the amount that is subjected to transfer taxes is one of the primary reasons for establishing a CLT.

3. *Income Tax Consequences:* The CLT can be structured as a grantor trust or non-grantor trust. If structured as a grantor trust, the Donor can receive an up-front charitable income tax deduction for the present value of the charitable interest. Complex rules may result in the deduction being spread over more than one year. The price for receiving this charitable income tax deduction is that the grantor will be taxed on the trust income during the term of the trust. If the CLT is structured as a non-grantor trust, the Donor will not obtain an up-front income tax deduction, however, the grantor will not be taxed on the trust income during the term of the trust. A CLT is not a tax-exempt entity. Its income is taxed to the grantor or to the trust, depending upon which type of trust is utilized. However, in the case of a non-grantor trust, the trust will receive an income tax deduction for amounts paid to charity.