CUMMINGS & LOCKWOOD LLC

WHAT PROPERTY SHOULD I USE TO FUND A CRUT DURING LIFE?

WHAT PROPERTY SHOULD I USE TO FUND A CRUT AT DEATH?

WHAT PROPERTY SHOULD I NOT USE?

Generally, funding a CRUT during life with low basis assets that if sold would produce a long-term capital gain will produce the greatest benefit for the donor. If the CRUT will benefit a private foundation, it is generally preferable to fund the CRUT with qualified appreciated stock (unrestricted publicly traded securities that if sold would produce a long-term capital gain).

When funding a CRUT at death, it may be advantageous to use assets that are subject to income tax, such as a retirement account.

You should avoid funding a CRUT with mortgaged property, property in which you will continue to own an interest (property that you would own with the CRUT as tenants in common), interests in partnerships that hold debt-financed property or that operate an active trade or business, S corporation stock, assets that are subject to a binding sales contract or any agreement or understanding under which the trustees of the CRUT would be obligated to sell the property to a third party, and during your life, retirement accounts and other assets that would cause you to recognize ordinary income if you transferred them to the trust. Illiquid assets, life insurance policies, options, and tangible personal property also may present issues.

It is advisable to work with your attorney and your accountant to confirm that your plans for funding a CRUT will produce the desired results both with respect to the income tax consequences of your gift and with respect to the administration of and tax consequences to the CRUT.