

Charitable Gift Annuity

- It is a contract, not a trust. A contract is a legal agreement between two parties.
- The CGA is backed by the assets of the SRF SJ. There are no federal or state guarantees or insurance funds backing the CGA.
- A CGA is a gift not an investment! People are making a donation to charity, and this type of gift just happens to spin off some income for the donor.
- The donor gets a tax deduction in the year they donate for the CGA. If they cannot use all the deduction in that year, they can carry it forward for five years.
- The minimum donation is \$5,000
- They cannot add more money to the CGA once it is done—they need to do a new CGA for additional amounts.

- The contract is between SRF SJ and the donor—the contract is called the Gift Annuity Agreement
- The contract provides for an annuity to be paid to one or two people for their lives (usually the donor and the donor's spouse or child); and after their deaths, to pay the remaining funds to a SR charity, called the charitable remainderman.
- If a local SRF is to be the remainder beneficiary, then there is a Special Agreement between the SRF SJ and the donor that specifies which local charity is to get the funds.
- You cannot have more than two income beneficiaries of a CGA.
- However, you can have more than two charitable remaindermen—i.e. the remaining funds can be paid to several charities as long as they are affiliated with the SRF SJ.
- A person can donate cash, stock, or real estate for a CGA. The annuity rate is set on the date they give the gift and does not change for their lives.

The annuity rates are set by the American Council on Gift Annuities (ACGA) in July of each year. They are good for that year. The rates are established so that at the end of the income beneficiaries' lives, at least 50% of the gift will be left for the charity. This complies with IRS rules. To give a higher rate, we would need to hire an actuary to justify the higher rate for each CGA. This is too expensive, so we use ACGA rates and the IRS accepts them without actuarial proof.

- CGAs can be single-life or joint and several (two-life).
- A single life CGA means there is only one income beneficiary, and the rate is based on that beneficiary's age.
- A two-life CGA means that there are two income beneficiaries and the rates are set based on both ages. Typically, the two-life cga is a lower rate than a single life.
- The two-life CGA means that the annuity is paid to both income beneficiaries during their lives, and then the entire annuity amount is paid to the survivor for his or her life. When the survivor dies, the balance of the CGA funds get paid to the charity designated in the CGA (if there is a Special Agreement, then the amount is paid to the SRF SJ and then the SRF SJ pays the local SRF. It is done this way for audit purposes.)

Variations:

- You can have a two-life CGA that pays the income beneficiaries successively: example, annuity first paid to father for his life, then to son for son's life.
- You can have a deferred CGA, which basically is when a donor gives the gift but wants to defer the annuity payments until a specific time or event occurs (i.e. when the donor turns 65; or when the donor retires from the Navy). The rate will be higher than listed in the ACGA tables because the money will have been invested for awhile before being paid.

When a person calls to inquire about a CGA, you need to get the following information:

1. Their name, address and telephone number
2. The dates of birth of the donor and the income beneficiary
3. The name of the income beneficiary (and address if different than donor's)
4. The amount of the gift (or the amount they want to use for the hypothetical proposal)
5. If they are to give stock, the fair market value of the stock, and their basis (cost) in the stock. If they don't know their basis, an estimate so we can run the proposal. If they don't know the fair market value of their stock, the name of the stock so we can look it up.
6. For real estate, the fair market value and basis

Some people want to donate money from their 401k or pension or retirement plan for a CGA. This is not the best idea because they are taxed on the withdrawal, and the tax deduction they get for donating for a CGA may not eliminate the tax that must be paid on the withdrawal.

Charitable Remainder Trust vs. CGA

With a charitable remainder trust (CRT), the donor establishes a separate legal entity (the trust) to hold his donation in trust for the benefit of non-charitable income beneficiaries and upon the death of the last beneficiary, to pay the balance to the charitable remainderman.

You can have more than two income beneficiaries in a trust; some people have themselves and then their children. With a CRT, at least 10% of the funds must be left for charity after the last beneficiary dies. Note that if the CRT includes children who are very young, the CRT may not meet certain the IRS tests for CRTs.

A donor needs a lot more money to fund a CRT—a minimum of \$250,000 because a lawyer needs to draw up the trust agreement (which can cost \$2500-\$3500), and the trust has to file tax returns each year (so there are CPA fees). The administrative costs of a CRT are high.

The person who holds the funds in trust is the trustee. The trustee can be the donor (though it is not recommended) or anybody the donor chooses, including a bank, an attorney or a relative. The trustee has to follow the instructions set forth in the trust. The trustee has fiduciary duty to the donor and income beneficiaries to manage the trust prudently.

The payout rate of the trust for the income beneficiaries is based on ages and the amount given.

There are two types of CRTs: a CRAT (charitable remainder annuity trust) and a CRUT (charitable remainder unitrust).

With a CRAT, the entire gift must be given when the trust is established. The gift is valued on that date, a percentage is applied to the value and the amount that results is what the income beneficiaries will get each year until the trust terminates. Fixed payments.

With a CRUT, the donor can add more money over time. Each year, the assets are valued, and the percentage of the trust is applied to the value of the trust assets. So, the amount the donor gets each year will go up or down depending on the value of the trust assets. Variable Payments.

There is also a flipcrut, where the payments do not start until a specific event occurs, such as the sale of donated real property.