CONTRIBUTION SCENARIOS

IRREVOCABLE TRUSTS I

Property contributor would like to create a charitable remainder trust to hold their units.

SCENARIO

The contributor has two options when dealing with a CRT. The first option is to transfer the units to a C-Corp and then the C-Corp can be contributed to the CRT. The C-Corp will pay income taxes at the corporate rate (currently 21% plus state taxes). Distributions, when received by the taxable CRT beneficiary are taxed at qualified dividend tax rates (between 0% and 23.8% plus state taxes).

The second option is to contribute the units directly to the CRT (or first contribute them to a disregarded LLC and then contribute the LLC to the CRT) and incur the excise tax on UDFI (which, given the fund's low leverage, will be a small percentage of overall taxable income).

Whether to proceed with the first or second option is fact specific and should be evaluated with your tax advisor. Also, since cash rents are typically less than 5% of fair market value, it is strongly advised that the CRT be formed as a NICRUT (Net Income Charitable Remainder Unitrust) which permits distributions of net income only (rather than out of the trust corpus).

The second layer of taxation that results from using a C-Corp as described in option one above may be deferred by establishing an intermediate LLC (Investment Co.) owned by the CRT that owns the C-Corp.Because CRTs use a fiduciary accounting standard, the taxation of dividend income generated from the C-Corp. dividend may be deferred until it's distributed by Investment Co. to the taxable CRT beneficiary. Please consult your tax advisor for more information.

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