

# SECURE ACT Planning using Testamentary Charitable Remainder Trusts

From Concept to Completion



# TODAY'S AGENDA

- The Basics & Private Foundation Rules
- Charitable Remainder Trust
- SECURE Act and the TCRT
- - Questions, Discussion, ect.

# THE BASICS

## Tax Reform Act of 1969

- Private vs. Public Charity
  - Private Foundation Rules
- Split Interest Gifts
  - Charitable Remainder Trusts
  - Pooled Income Funds
  - Charitable Lead Trusts
  - Remainder interests in a residence or a farm,
  - An undivided portion of the donor's entire interest in the property
  - A conservation contribution

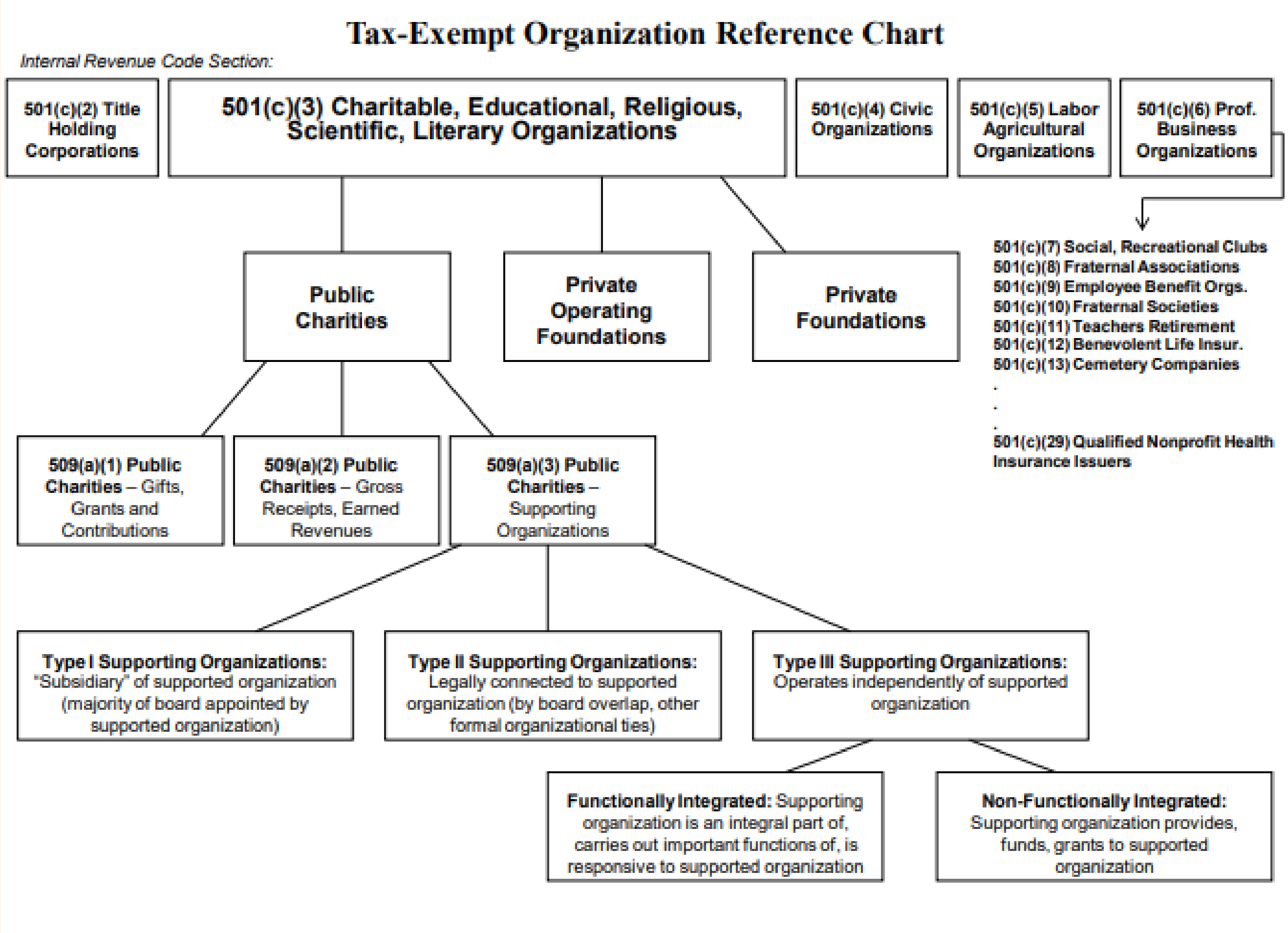




# TAX-EXEMPT STRUCTURES

501(c)3

- Form 990
- Form 990 -PF

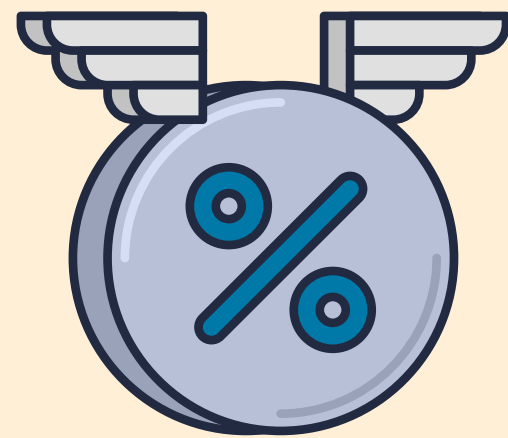




Self-Dealing (IRC § 4941)	Minimum Distribution Requirement (IRC § 4942)	Excess Business Holdings (IRC § 4943)
Jeopardizing Investment (IRC § 4944)	Taxable Expenditures (IRC § 4945)	Excise Tax on Investment Income (IRC § 4940)

Private Foundation Rules

# PRESENT VALUE OF REMAINDER INTEREST



IRC 7520 Rate



"Split-Interest"  
Charitable Gifts



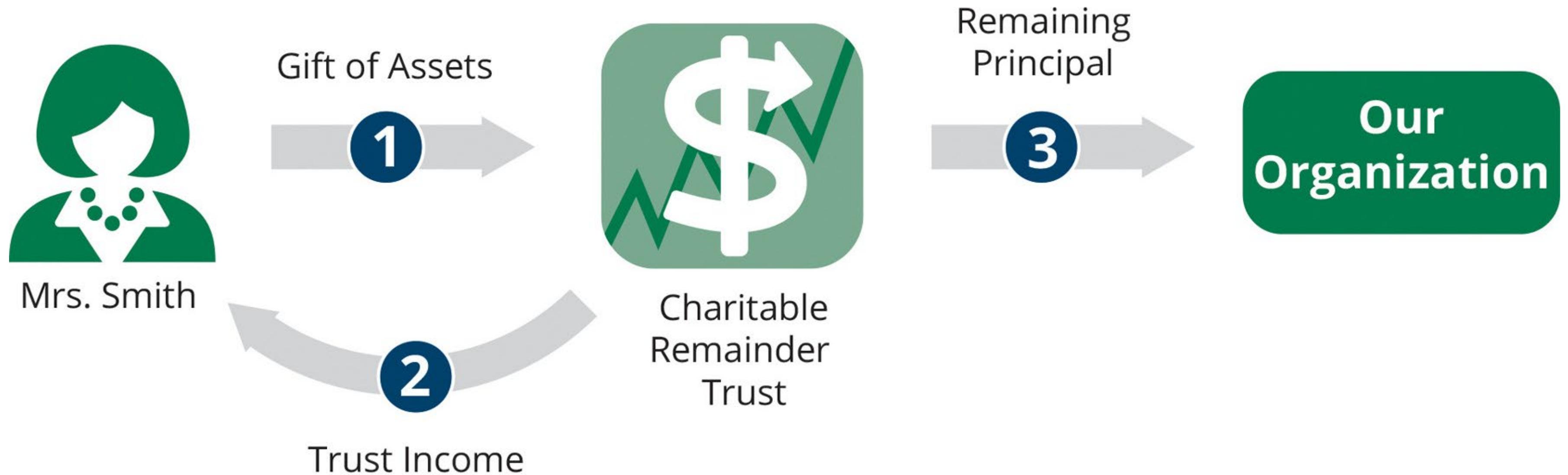
Allocation between  
income & remainder  
beneficiaries





# CHARITABLE REMAINDER TRUSTS

IRC 664





# TYPES OF CHARITABLE REMAINDER TRUSTS

## Charitable Remainder Annuity Trust

Charitable remainder annuity trusts (CRATs) distribute a fixed annuity amount each year, and additional contributions are not allowed.

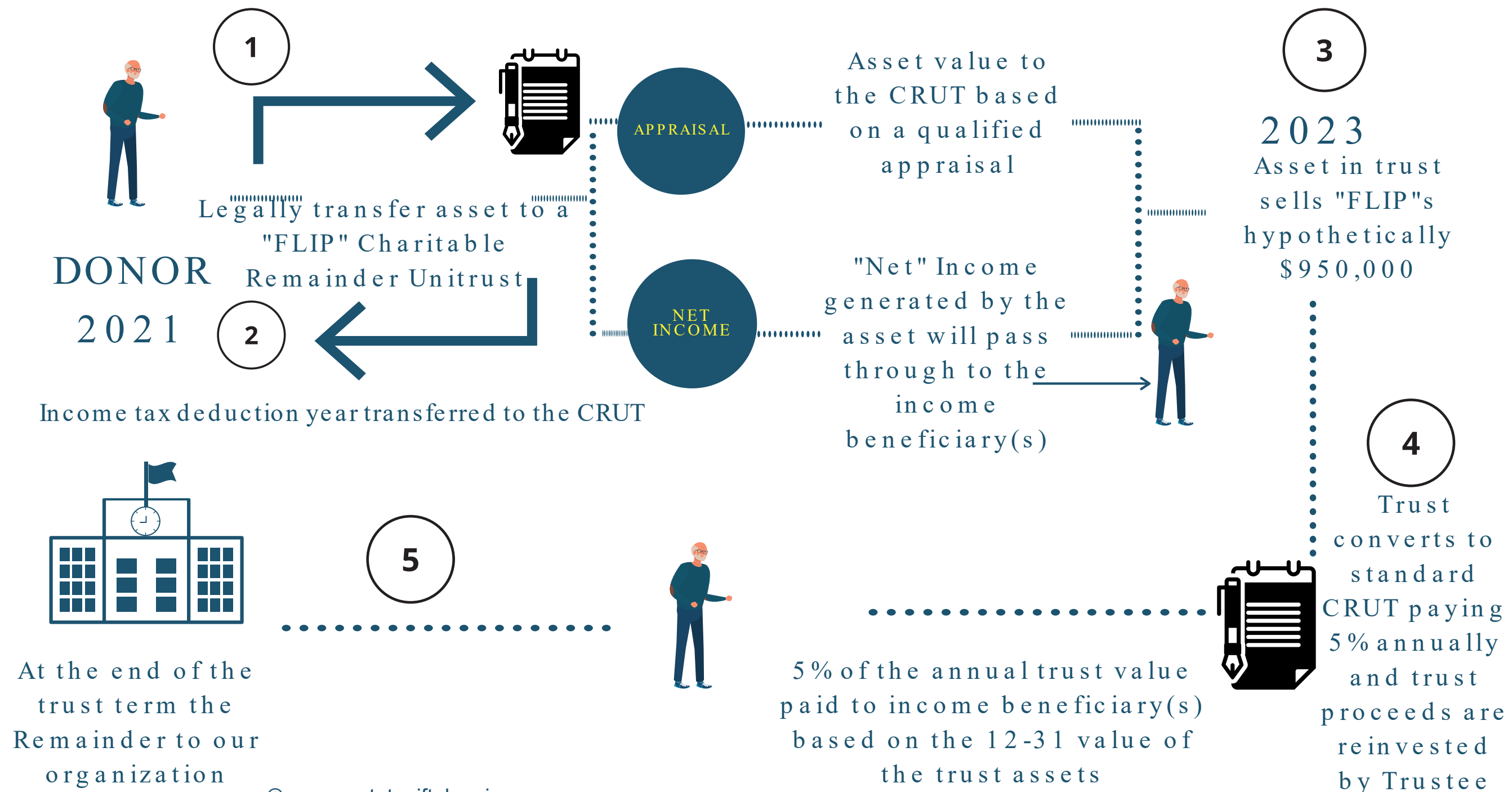
## Charitable Remainder Unitrust


Charitable remainder unitrusts (CRUTs) distribute a fixed percentage based on the balance of the trust assets (revalued annually), and additional contributions can be made.



# DONATING ASSETS TO A CHARITABLE REMAINDER TRUST (CRUT)

## "FLIP" CRUT





The SECURE Act significantly limited who can stretch payments from an inherited IRA over their life expectancy. Now, only the following people can stretch distributions from an inherited IRA over their life expectancy:

- a spouse
- a non-spouse who is less than ten years younger than the deceased owner
- a minor child of the deceased owner
- someone who is chronically ill
- or disabled

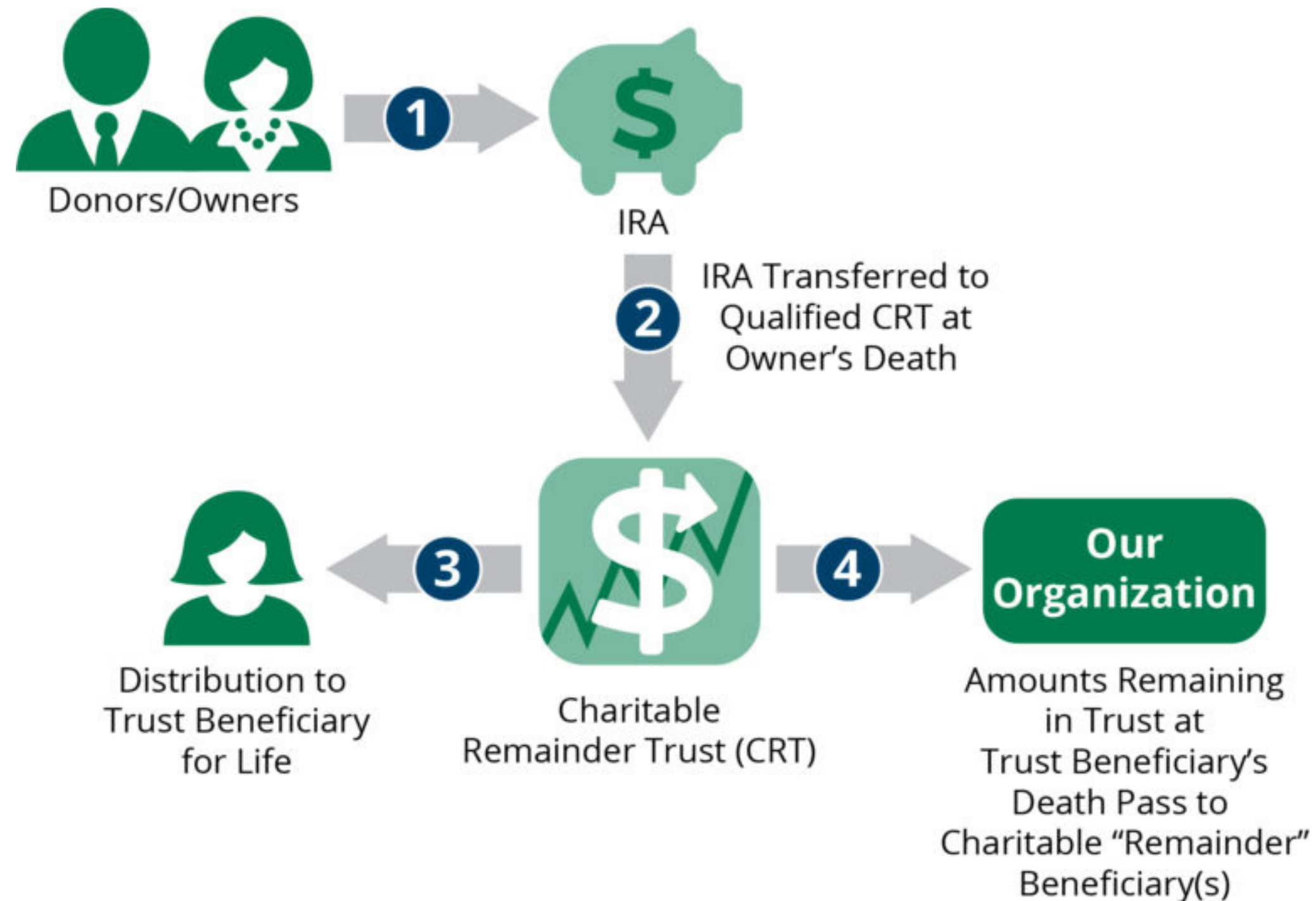
# SECURE ACT



# TESTAMENTARY CHARITABLE REMAINDER TRUST

- Name the trust as the primary beneficiary of Donor's IRA
- Review Your States "Dry Trust" Rules

## RETIREMENT ASSETS





# TESTAMENTARY CRUT FUNDED WITH RETIREMENT BENEFITS

Efficacy Based on the Trust  
Term of Years and Donor  
Intent



#Years

Efficacy

Best Practice

1  
0

TYPICALLY  
INNEFFECTIVE

Establish conduit trust, or  
accumulation trust at controls a  
Ten Year Liquidation

1  
5

EFFECTIVE WITH  
STRONG DONOR  
INTENT

Establish conduit trust, or  
accumulation trust, or use  
TCRUT only if the donor desires  
a charitable legacy

2  
0

EFFECTIVE WITH  
MODERATE  
DONOR INTENT

TCRUT established to qualify  
with a minimum of 10%  
charitable value remainder  
interest

2  
8

INTERSECT WITH  
TCRUT AND 10-YEAR  
STRETCH

Typically around the 28th, the  
year the TCRUT has an identical  
result than no charitable gift  
and a Ten Year Liquidation.

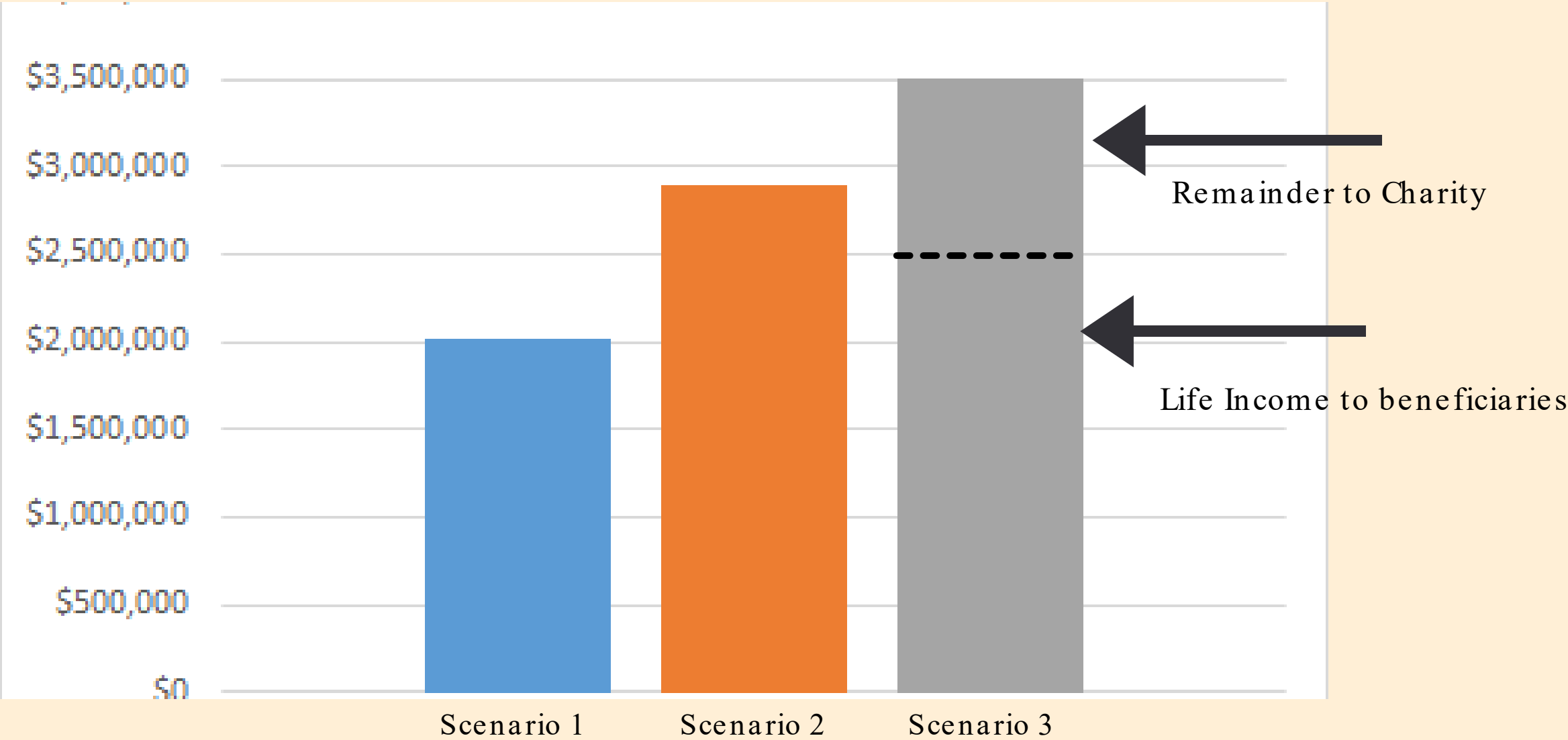
3  
5

IMPROVED  
ECONOMICS OF  
RETIREMENT  
ASSETS

Typically around the 28th year,  
the TCRUT may produce more  
family wealth than a Ten Year  
Liquidation.

ASSUMPTIONS

Tax rate: 37% on Lump Sum  
Tax rate: 22% assessed ongoing  
Scenario 1: Inherits \$500K IRA. No rollover to inherited IRA; immediate withdrawal. Amount invested after taxes.  
Scenario 2: Inherits \$500K IRA. Rollover to inherited IRA, 10-year deferral then withdrawn.  
Scenario 3: \$500K into Testamentary CRUT. 5% annual payout based on the beginning principal balance.  
Rate of return: 7%  
Term of Years: 35  
Principal: \$500,000



SCENARIO #1  
TOTAL AFTER 35 YEARS: \$2,024,805  
GROWTH: \$1,524,805  
PV (BEG. YR 1): \$315,000

SCENARIO#2  
TOTAL AFTER 35 YEARS: \$2,897,986  
GROWTH: \$2,397,986  
PV (YR 10 TO BEG. YR 1): \$498,290

SCENARIO #3  
REMAINING PRINCIPAL  
TOTAL AFTER 35 YEARS: \$999,939  
GROWTH: \$499,939  
PV: \$93,657

SCENARIO #3  
LIFETIME INCOME  
TOTAL AFTER 35 YEARS: \$2,495,565  
GROWTH: \$2,495,565  
PV: \$388,237





# DR. AGNES SMITH

## \$1,000,000 IRA

Estate Tax Deduction \$282,840

- Income tax saved (@ 37% rate) \$370,000
- The after-tax benefit to children \$1,270,755
- Remainder to Agnes charity \$2,287,928

Assumptions:


- The IRS discount remains the same and the CRUT averages 3% income and 5% appreciation each year over its term





# WHERE SHOULD A TESTAMENTARY CRT DOCUMENT “LIVE”?

- CRT provisions into a revocable living trust document  
"100% to ABC Charity, trustee of a charitable remainder trust described in Clause X of a trust document executed by me on Month, Day, Year."
- The “Dry” Trust  
Draft as revocable "fund with \$10 " and irrevocable at the death of Grantor. There is no intent that the trustee actually invests the \$10, make payments to the income beneficiaries, or file tax returns.
- Create a "Fund" a Qualified CRT Today  
Irrevocable, non-grantor trust. EIN and tax reporting annually.



Recommend the retention of a right to revoke. This ensures the trust is NOT a qualified CRT until the grantor/donor's death.

“Solely for the purposes of section 664 and the regulations thereunder, the trust will be deemed to be created at the earliest time that neither the grantor nor any other person is treated as the owner of the entire trust under subpart E, part 1, subchapter J, chapter 1, subtitle A of the Code (relating to grantors and others treated as substantial owners), but in no event prior to the time property is first transferred to the

Sec. 1.664-1(a)(4)

# T-CRT CHECKLIST



Choosing the trustee and the charity



Choosing the Best Type of CRT - CRAT, CRUT, FLIP CRUT, or NIMCRUT



- Minimum 10 % charitable deduction
- No use of the IRD Deduction  
§ 1.691(c)-2(a)(3)



No Pecuniary Bequest With Retirement Assets



# 5-STEP PROCESS OF ANALYZING A CHARITABLE GIFT™



0 1

Who is the donor? individual, trust, corporation or foundation?

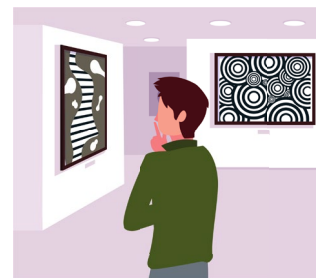
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0 2

What is the Type of Asset Donated? "Long" or "Short" Term Gain property, Tangible, intangible or Real?

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0 3

Will the organization consent to a related use, or immediately liquidate the asset?

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0 4

Who is the donee? A "public" or "private" 501(c)3? Does the donee meet the definition of a charitable organization under IRC 170(c) and 2055(A) for Income and Estate Taxes? (NOTE: Daf's don't always get the same treatment as public charities.

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0 5

Is the donor receiving something in return? Income interest? Quid pro quo?



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# TOOLS TO EXPAND YOUR PRACTICE

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# THANK YOU!

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