

Situation

- NIMCRUT not providing desired income

Solution

- Sell income interest

Results

- Clients sold income interest at nearly 40% premium to value of keeping it, per CPA's calculations*
- Clients no longer bound by NIMCRUT's payout restrictions

* To see our full review of Jack and Susan's income interest sale and the related cash flow projections, e-mail CRT@SterlingFoundations.com with "Jack and Susan's Review" as the subject.

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SALE OF CRT INCOME INTEREST

Case Study: Underperforming NIMCRUT

In the late 1990s, Jack and Susan owned a piece of land worth \$4.2 million. They wanted to sell it and reinvest the proceeds, while protecting the principal from tax. Their advisor, Art, suggested they create a net income with make-up charitable remainder unitrust (NIMCRUT). Art knew that land doesn't always sell right away, and that can be a problem for a regular CRUT, which is required to distribute cash whether it has income or not. Because a NIMCRUT pays out the lesser of the actual income or the stated payout rate, a year or two of zero income would not be a problem.

It ended up taking over two years to sell the property, so, initially, Jack and Susan were pleased with the decision to create the NIMCRUT. As the NIMCRUT entered its "income" phase, however, their feelings changed. The NIMCRUT had an 8% payout rate, but because of its net income limitation, it must generate the 8% in trust income in order to distribute it. The NIMCRUT was generating just a fraction of that (2-3% in most years), so the income stream Jack and Susan had anticipated never materialized.

After several years of (unsuccessfully) looking for ways to generate more trust income, Jack and Susan were at a loss. They felt trapped by the limitations of the NIMCRUT and didn't know what to do.

In a meeting with their attorney, Brian, the NIMCRUT came up. Several of Brian's clients had previously completed sale or rollover transactions with Sterling and he explained how each transaction worked. Jack and Susan were shocked that such flexibility existed. "We thought this was a lifetime lock-up since the trust is irrevocable," said Jack. Brian explained that, while the trust itself is irrevocable, their interest in the trust is a capital asset and salable, just like a stock, bond, or piece of property.

Sterling reviewed Jack and Susan's interest and provided an estimate for what they would receive in a sale. After crunching the numbers with their CPA, the decision to sell their income interest was an easy one. Not only would the sale free them from the limitations of the NIMCRUT, but as their CPA's calculations showed, they were also able to sell their income interest at a significant premium to the value to them of keep it.*