

Techniques Available for Funding an Alimony Obligation

A comparison

TECHNIQUE Cash Free of Trust	Alimony Trust	Charitable Remainder Trust (CRT)-Alimony Trust	Charitable Gift Annuity
DEDUCTION FOR PAYOR Yes, against adjusted gross income (AGI)	No, though payor not taxed on payments from trust	Charitable deduction for payor	Charitable deduction for payor
INCLUSION INTO GROSS INCOME OF PAYEE Yes, in full, as ordinary income	Yes, to the extent distribution is less than or equal to distributable net income. Potential for tax-free returns	Yes, but potential for some of the distribution to be taxed more favorably under tier accounting rules	Yes, but portion of payment will be tax-free return of principal
SPECIAL COMMENTS To the extent the payor's AGI is reduced, the donor's AGI floor medical expense deduction is lowered, increasing the likelihood of the deductibility of medical expenses However, the reduction in AGI increases the chance of the nondeductibility of charitable contributions and the taxability of Social Security payments	Payor's AGI won't be reduced by distribution	Charitable intent of payor-settlor must be sufficient to gift enough principal to fund alimony obligation Qualified contingency under Internal Revenue Code Section 664(f) must be carefully drafted in the current low IRC Section 7520 interest rate environ Payor receives charitable deduction for present value of charitable remainder interest, which may be nominally greater than a conventional alimony payment stream Payee is taxed under the tier accounting rules, which may be more favorable than either a conventional alimony payment or a payment from an alimony trust	Charitable intent of payor must be sufficient to gift enough for principal to fund alimony obligation Qualified contingency is unavailable; payor-settlor must be content to fund a lifetime income to former spouse even through a remarriage Payee is taxable under the recovery of basis rules governing annuities. The result may be more favorable than a conventional alimony payment Payee is taxed under the tier accounting rules, which may be more favorable than either a conventional alimony payment or a payment from an alimony trust

—Christopher P. Woehrle