LIFETIME LEGACIES

Tilly Forster[1]

Introduction

The use of tax-effective split interest trusts[2] has long been a significant factor in raising the amount of charitable giving by individuals in the USA. During 2004 a number of people in the UK charity sector began to consider how the success of this technique might be replicated in the UK. Proposals for the amendment of UK tax law to encourage the use of such trusts by UK donors have recently been presented to the Treasury and Inland Revenue by the Lifetime Legacies coalition[3].

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2 A split interest trust is a trust where the interests of the beneficiaries are divided between those entitled to the interest in possession (entitlement to the income for a period of years) and those entitled to the remainder interest (the entitlement to capital at the end of that period). For many years US advisers have promoted the use of such trusts by philanthropic individuals. These trusts typically take one of two forms: the charitable remainder trust (CRT) or the charitable lead trust (CLT). In the CRT model the income interest is held for the benefit of the donor and/or family members with the remainder interest passing to one or more charities. The CLT model uses the reverse scenario: the income is held for the benefit of one or more charities for a specified period, and at the end of that period the remainder interest passes to designated individual beneficiaries.

3 The coalition comprises the following organisations and individuals:
Associations – Association of Charitable Foundations, Charities Aid Foundation, Charities' tax reform Group, Council for the Advancement of Support for Education, European Association for Planned Giving, Institute of Fundraising, Institute for Philanthropy; Charities – Canterbury Cathedral, Help the Aged, London Business School, Marie Curie Cancer Care, National Trust, Royal Academy, Save the Children, Tate; Professional advisers – Richard Cassell (Withers LLP), Vicky Dyer (Central Lobby Consultants), Paul Knox (Ernst & Young LLP), Theresa Lloyd (former Director of Philanthropy UK), Sam Macdonald (Farrer & Co).

The coalition considers that charitable remainder trusts (CRTs) are likely to be more attractive to UK donors than charitable lead trusts (CLTs) because they resemble a charitable legacy or deferred gift. In essence the creation of a CRT represents an irrevocable commitment by a donor during his or her lifetime to make a charitable gift that takes effect either at a predetermined date during the donor's lifetime or on the donor's death. Hence the coalition chose the title of Lifetime Legacies to embody this concept.

The Institute for Philanthropy convened a meeting on 24 January 2005 to discuss the opportunities for and the barriers to the introduction of "lifetime legacies" in the UK.

This article is an edited transcript of the presentation by the panel of speakers and the subsequent debate.

Panel Presentations

Chair: Nicolas Browne-Wilkinson

Panel: Caroline Butler, Lord North Street Limited
Sam MacDonald, Farrer & Co
James Kessler QC

Caroline Butler

Through Lord North Street Limited, which is a Private Investment Office for wealthy families currently managing over £1 billion of assets, I talk to a number of families about the disposition of their assets.

Under current rules, whether they give or not to charity is a fact, one line on their tax form, but has no implications for wealth management. But one of the interesting positive side effects of introducing Charitable Remainder Trusts is that charitable giving now becomes a subject for financial advisers to raise within the discussion of a family's long term aims because there is a wealth management structure upon which to focus that conversation. This applies at all wealth levels.

If the incentives are good, families will want to add a charitable dimension to their wealth management where none existed before and of course, once started, charitable giving tends to foster more charitable giving.

We have supported the Institute for Philanthropy's campaign by gathering specific evidence via a formal questionnaire and informally in discussions with a total of around 20 families whose total net worth represents over £1.25 billion.

The results of the questionnaire have been summarised by the Institute but I thought I would just highlight some of the important points from the donors' point of view. Clearly, if the donors do not think the incentives are worthwhile, they will not use the structures.

I approached all donors on the basis of a structure similar to that prevailing in the US today. There was a strong interest from all parties in using these structures

The following points were thought to be equally essential for that interest to materialise into commitment:

1. income tax relief would need to be at the full rate for amounts settled in the trust;

2. the ability to put all types of assets into the trust as in the US including unlisted shares, works of art, mineral rights, timber in addition to listed shares, funds, land etc.;

3. the ability to retain control over the investment management of the funds. Many donors have been shocked at the attrition of charitable funds managed institutionally. I know of some donors in the audience who have retained control of their foundation and saved their funds from substantial losses over the 2000-2003 period;

4. the ability to choose different levels of income and effectively preserve how much they are passing on to charity;

5. the option to change the charities to whom the funds are destined during the life of the trust which might be over 20 years;

6. flexibility on the selection of trustees with a view to keeping costs down while ensuring longevity (institutional trustees change staff more and more frequently).

Donors see CRTs and CLTs as a way of providing a pension for themselves or interestingly, in an age where we are all living longer, for their own parents for whom they feel responsible.

Donors see distinct advantages of being linked to a charity during their lives and a greater likelihood that as a result that their children would inherit the interest and carry on the giving tradition.

CRTs give wings to those who are not currently charitable angels. We believe if introduced as in the US, it would revolutionise the charitable landscape in the UK by transferring substantial capital to charitable causes.

Sam Macdonald

A truly inspiring aspect of this campaign has been the way in which donors and charities, umbrella bodies and professionals have come together with common cause and with a collaborative intent - as well as the speed with which people 'get' both the tax logic of the argument and the clear incentives to donors and attractions to charities.

Looking at the US experience, in 1969 the US Government introduced legislation to regulate the already burgeoning market in charitable remainder trusts and charitable lead trusts; this legislation - introduced as it was to address concerns of abuse - provided the foundation for the regulatory framework through which almost US$ 100 billion has passed into charitable hands in the 35 years or so since it came into effect.

The Position in the US

The US regime provides for both CRTs and CLTs - the latter being a reverse arrangement whereby the charitable beneficiary enjoys an income entitlement for a period of years, after which the capital reverts into private hands. Our view is that CLTs are of considerably less value to the sector in this country and so, at this stage, we are focussing only on the introduction of CRTs.

CRTs in the US themselves come in two basic forms - the Charitable Remainder Annuity Trust and the Charitable Remainder Unitrust. As the names suggest, the essential difference has to do with the methods used to calculate and generate the income payments. Both versions incorporate the basic features that we would like to see introduced here: an irrevocable commitment of capital to a charitable cause, to take effect following a period of private income entitlement and, crucially, tax treatment and incentives to reflect and recognise that irrevocable charitable commitment.

Obviously the tax system in the US differs from that here and so direct comparisons may not be helpful. But the principles are relevant and reflect what we think should be brought to the UK. Those principles are essentially twofold. First of all, that there should be exemption from capital taxes in recognition of the fact that the capital interest is committed to charity. Secondly, that there should be an income tax break offered to the settlor again to reflect the value of the asset committed to charity but also to encourage that commitment. The income tax break of course is calculated by reference to the present value of the future receipt by the charity. This approach in the US has led to the success of CRTs there, so much so that they now form a key feature on the fundraising landscape.

The Position in the UK

CRTs are in fact perfectly legal in this country already. CRTs are a simple variation on the familiar arrangement whereby a person settles assets on trust for himself or another for a period of years, those assets then vesting absolutely in someone else. With CRTs, the 'someone else' is a charity.

The problem is that a combination of reservation of benefit rules and a lack of recognition of the irrevocable commitment to charity positively discourages the use of CRTs within a planned giving strategy in the UK.

There may be - indeed are - other uses of CRTs here but they do not involve tax efficiency. As a consequence, a philanthropist planning his affairs is better advised to make an immediate gift to charity of no more than he can afford to part with, and then, when the time comes, consider making other charitable gifts under his will. Our view is that this arrangement deprives charities of important benefits to no real purpose and should therefore be changed.

The benefits to charities are as follows:

(a) a charity named as a beneficiary of a CRT knows it has coming to it a set amount of money. No matter how much good work a fundraiser puts in to increase legacy donations, that is a much more certain, more bankable commitment on which a charity can plan its future;

(b) a charity that secures a CRT commitment has opened the door to relations with the donor. Acknowledgements and thanks may make the donor feel even more warmly towards his chosen cause - and at a time when he is still around to make further gifts; and

(c) all this can be achieved without the donor giving up the security of an income stream from the assets in question.

This last point may be the most important of all, as it has potential to unlock sizeable charitable contributions from a section of the public who may fear giving assets away outright too early in life.

Whilst larger charities will have the wherewithal to run CRTs for their own donors, this will not always be within the reach of smaller organisations. In order to achieve breadth of participation - both in terms of donors and charitable beneficiaries - it will be important to find a way to deliver economies of scale to a wide market. Lessons could be learnt from the way in which property common investment funds have enabled small charities to participate in the property market on a scale that would simply not be possible if they were to invest directly.

Provided certain safeguards were in place, investment managers might be able to offer the running of CRTs to investors as part of their overall portfolio of products. The manager (or a related - but properly controlled - corporate) would act as trustee and would invest the donated fund in the usual way. At the end of the interest in possession, the capital would be held on trust for the charity either to be paid over or to be retained as an investment, as the charity would then decide.

There would undoubtedly be difficult issues to deal with in putting all this in place. But - again drawing on the way in which common investment funds have been so successfully run - there is no reason in principle why this should not be made to work. It would be one - no doubt amongst a number - of the ways in which CRTs could deliver real value to the sector.

James Kessler QC

A copy of James Kessler's paper "Proposal for Charitable Remainder Trust" was presented to those attending the meeting[4]. The author briefly summarised the contents of his paper and highlighted a number of key issues arising as follows.

1. Is there a demand for making a trust to run for a set number of years, instead of for life? I have ignored this option.

2. Is it right to set a limit on the benefit to the donor? Could you make a 'high yield' annuity? Would this be bad for charity leaving little at the end? I have ignored this option.

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4 This paper is an earlier version of the article by James Kessler QC that appears in this issue.

3. Inheritance tax relief is needed.

4. Current law states that income tax relief is on gifts of land, quoted shares or money. There is no income tax relief on unquoted shares, works of art etc. You cannot therefore give income tax relief on works of art given to CRTs under current law, as it would not fit with the current law on income tax relief. You would have to wait until the law changes on income tax relief for gifts of works of art to charity before that relief is available for gifts to CRTs.

5. Income tax relief on cash donations to charity assumes no benefit to donor. But if quoted shares are donated to charity, then the donor is allowed to receive benefits. So what is the position for CRTs? I suggest that no benefit to the donor should be allowed apart from an interest in or use of the assets until the end of the trust's life. Do others agree?

6. CRTs should benefit from capital gains tax relief. Do others agree?

7. I propose that there should be a minimum benefit to charity. I suggest 25%. In practice the value of the benefit to charity depends on the life of the tenant. I suggest minimum ages for the life tenant, e.g. 36 for a single male or 44 for a married male with a wife of similar age.

8. In order to prevent abuse by trustees, trustees of CRTs should include a charity, professional person, trust corporation, or other person approved by Inland Revenue.

Public Debate

The meeting was attended by representatives of the Treasury, the Inland Revenue and the Home Office. However, they were present only to listen with a view to the formation of policy and did not participate in the debate.

For the purpose of this article the comments below have been grouped by reference to the issues raised and are not presented in the order in which they were made.

1. Benefits to Fundraisers – a new way of giving to discuss with donors

Andrew Watt – Institute of Fundraising

CRTs give charities the opportunity to open a dialogue with the middle classes and debate with them ways to maximise charitable incentive without disadvantaging their families. It would enable people to release assets to charity that make them wealthy but do not make them feel wealthy. This allows charities the opportunity to present major philanthropy to people who are not enormously wealthy themselves.

Also, much smaller regionally based charities with an income of under £5,000 per year saw this as a way of going out into the community and building relationships with potential donors, like small businesses owners, within the community. The Institute of Fundraising has been working together with the Charities Aid Foundation and Charities' Tax Reform Group on this. The Institute could carry out a piece of research on this issue if it was needed.

Theresa Lloyd – Charity consultant

In the context of the tsunami appeal, organisations are starting to think about long-term reconstruction and disaster funds. This could lead to some very creative thinking on fundraising.

Paul Edwards – Marie Curie Cancer Care

Marie Curie does have some major donors, but they are hard to find. I would welcome CRTs because it would give fundraisers something else to talk to donors about. It could be a tool for securing major donations to the charity. The vehicle could unlock the sector of society that is asset rich. For example house owners have notable assets. CRTs would provide another way of getting into conversations with donors over the long term.

Gretchen Clayton – Goldman Sachs International

Does it matter if CRTs primarily benefit more elite causes? I don't think so because from the charitable sector's perspective CRTs would unlock wealth that would not otherwise be given to charity.

Nicolas Browne-Wilkinson

Politically, CRTs cannot be seen to only benefit the rich. The potential value of CRTs to the ordinary giver to charity needs to be made clear. This would increase their giving rather than being something just for the very rich.

2. Benefits to Charity Sector – a range of causes will benefit

Mark Astarita – British Red Cross

I am basically in favour of CRTs as a fundraiser. We need to be cautious about difference in patterns of giving in US and UK. Only three of top 100 fundraising charities are represented at the CRT summit. Could this be the case because the particular group of donors who would be affected by CRTs is not the most important group of donors to these types of charities in the UK? Does this reflect US giving where education and arts are the biggest beneficiaries of this type of giving? Professor Adrian Sargeant's research for CAF shows a different mix of giving in the US and UK.

This is an interesting time to have the debate on CRTs as we are heading towards a serious debate over the meaning of charity in the UK. This mechanism for effective, tax efficient giving might draw attention to the potential beneficiaries being arts and education. This might not sit comfortably with the debate over the benefit of charity in the UK.

In the UK, trust and confidence in charity is high, much higher than confidence in financial services which would be involved in CRTs. In the US, fundraising is driven by planned giving of this type but in the UK the relationship between donors and fundraisers is very different.

I am concerned that 20 years ahead could we expect cancer, international causes etc still to be beneficiaries? Also the debate on CRTs has not been far reaching enough within fundraising circles. It feels a bit donor and financial services led. Some independent research is needed.

Helen Donoghue – Charities' Tax Reform Group (CTRG)

CRTs have been road tested extensively amongst the membership of CTRG. There has been an overwhelming endorsement from member charities that CRTs would be beneficial. That is why other organisations such as the Institute of Fundraising, CAF and the National Council for Voluntary Organisations have backed it. All major charity umbrella groups have discussed CRTs with their members and that is why CTRG supports it so strongly.

Beth Breeze – Institute for Philanthropy

The analysis of interviews with potential donors conducted by the Institute for Philanthropy shows that social causes were the top cause that potential donors would support. Five other options were given where works of art and education were included, but a seventh category was added by potential donors. That was international causes. This can reassure us that if CRTs were to be introduced in the UK it would be in step with current patterns of giving.

Theresa Lloyd – Charity consultant

We are essentially talking about an advance legacy where the beneficiary will receive assets at some point. Therefore causes that are more likely to benefit from CRTs are those that can plan for capital, by borrowing against the CRT value in advance, or for endowment.

In the US, CRTs have been going for several decades and so institutions such as universities, hospitals and hospices more readily benefit from endowment. They do not depend so much on the immediacy of appeal that causes such as social welfare do.

But this does not have to be the case. For example, the National Society for the Prevention of Cruelty to Chidren with a massive investment is currently building up a huge endowment for itself on the back of the Full Stop campaign.

When we look at the US, which is so different to the UK in values and traditions, we should not be distracted by the differences and should think of the benefits to donors.

Also, in my research on why the rich give[5], the single cause that was mentioned most often by donors were local hospices.

Joanna Motion – Council for the Advancement of Support for Education (CASE)

In the US these instruments have been powerful in education and the arts because that is where it is possible to build up long term relationships with major and mega donors over a period of time. If we look at bringing the concept to UK, it is certainly the case that universities that are most involved in fundraising have donors who would wish to be involved in CRTs. I doubt that this would take away from donations to other causes such as British Red Cross. It is more to do

5 "Why rich people give", Theresa Lloyd, Philanthropy UK www.philanthropyuk.org

with making this attractive to donors who are between the mini and the mega donors.

Peter Scott – National Gallery

I would like to argue in favour of including works of art in CRTs. However abstruse the arguments about the tax law and its complexities and in certain areas its chaos, one should not lose sight of the social end that one is trying to achieve by making changes in the tax law. Sometimes it may be the case that the balance is influenced by the social end that you are trying to achieve. The National Gallery gets no money from the Government for acquisitions, nor do endless other museums and galleries in the country. They all depend on private wealth or corporate wealth for keeping their collections alive and improving their collections. Unless that can be encouraged, inevitably lots of things which are seen to be part of the heritage of this country will leave this country.

The National Gallery recently stopped the export of two important pictures by a French artist, which had been bought from the artist and had remained in the possession of the Clive family ever since. The export was stopped for a short period to see whether the money could be raised to buy the pictures from the recent buyer. The buyer offered to give the National Gallery the pictures provided he could have them for his lifetime. He was an American and he wanted to put these in his house in New York. Because he was an American it was possible for him to pay for the pictures through a charity in America set up for this purpose some years ago and to obtain income tax relief for the actuarial value of his gift. The pictures are currently in the National Gallery for eight months as part of the arrangement. They will then go to New York. Once the owner has died the paintings will be returned to the UK, costing nothing. This is an example of how parts of the American system can work and also an example of how important it is that something that can make these kinds of things possible ought to be encouraged.

Another point is that the proposal at the moment is that CRTs should only benefit individual donors. However, a great many works now in this country, very important ones, - some of them hanging at the moment on loan in the National Gallery, others in private hands - are the property of trustees. Some attention needs be given to the question of whether trustees can also benefit when they are considering what they can legitimately do. It is surely a factor as to whether or not they will give some sort of tax advantage for the trust as a result of what they propose to do, when something belongs to the trust.

Nicholas Goodison

I support everything Peter Scott has just said. But I would be hesitant to go along with James Kessler's logic of excluding tax reliefs on works of art and culture (for example Darwin's stuffed pelican). If you exclude that part in this proposal you will never get the reliefs proposed in the Goodison review[6]. I would rather have the coalition's proposal and not mine than neither the coalition's nor mine. Both would be preferable and I would like the logic of the coalition's proposals to spread into mine.

Gill Raikes – National Trust

There are many artefacts in National Trust houses that are at risk of being sold off abroad. Therefore families in such houses would support anything that would enable them to keep art and artefacts in this country.

3. *Benefits to Donors – building relationships with charities whilst maintaining financial security*

Nicholas Goodison

Having interviewed quite a few donors when writing my review for the Treasury it is clear that these proposals would achieve not only a closeness between donor and institution but they would also help with the psychology of the donor. Some donors are unwilling to release assets immediately. They are much more receptive to releasing them in the uncertain event of their future death than releasing them today. So CRTs are very important in solving that psychological problem.

Second, there is the temptation in the immediate tax relief. I am not in favour of tax reliefs per se, but I am in favour of tax reliefs if they are there as a primer to philanthropy. All donors that I spoke to said they would be attracted by the immediate tax relief on the release of future assets. So it seems that CRTs would greatly increase the amount of philanthropy shown towards charities of all sorts.

Peter Harrison – Harrison Foundation

I set up a foundation six years ago after selling the business. I am sick of being asked if I did this for tax reasons. We should be promoting more about the concept of charitable giving. Tax is an important factor, but it is not the key reason for giving. The relationship between donor and cause is very significant.

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6 "Securing the best for our museums: Private giving and Government support", HM Treasury, January 2004.

David Kaye

There is a trend amongst donors away from big national institutions towards charities where the donor feels he can make a significant difference. These tend to be smaller organisations. I would want to ensure that the charity to benefit from the CRT could be changed.

Don Kirkwood – London Business School

Having worked around CRTs for many years I recognise that a further side benefit is that it increases the annual income to donors and therefore can increase discretionary donations to charity. Another thing is that as people live longer, the opportunity to be a trustee and to manage their money is an effective way of keeping people young. This gives a personal motivation to establishing a CRT.

Gill Raikes – National Trust

The National Trust talked to donors last summer. There is huge anxiety about the future amongst middle wealth donors. They would like to give to charity but "daren't". There is a need to encourage people like these to engage with charity by providing them with the confidence that they won't be doing themselves out of future security.

Theresa Lloyd – Charity consultant

Also the timing and the demographics are important where there are more and more people who own their house and are reasonably well off, possibly childless, who are thinking about what they can do with their money. In these cases, the capacity to build up long-term relationships with charities throughout one's lifetime is very appealing.

4. Benefits beyond Legacies – donors building relationships with charities

Mark Astarita – British Red Cross

A large proportion of voluntary sector income comes from legacies. Would introducing CRTs give with one hand and take with the other?

Theresa Lloyd – Charity consultant

Financial security and being able to plan are crucial in giving to charity. We are talking about people who cannot afford to give away capital but would make a commitment as an advance legacy.

Andrew Watt – Institute of Fundraising

Charities who are heavily dependent (70-80%) on legacy income saw this as a hugely valuable opportunity to develop ongoing relationships with donors.

5. *Charitable Lead Trusts*

David Bernstein

I want to ask Sam Macdonald why he excluded the other sort of trust where the asset would revert to the settlor for a shorter period and the income would go to charity. If one wanted to look after one's family eventually but felt they were growing up and so it wasn't an issue yet there would be a large amount of assets that could be put to charitable use if that model were employed.

Sam MacDonald – Farrer & Co

It is recognised that there could be situations where this approach (Charitable Lead Trusts) is beneficial to donors and charities, and they are popular in the US. But trying to make the case for CLTs alongside CRTs, particularly considering the concerns of the Treasury and Inland Revenue, would weaken the case. So it was decided it would be better to focus on CRTs rather than CLTs. But in principle this type of trust is not opposed.

James Kessler QC

A donor to a CLT would get income tax relief on gifts to charity year by year, rather than upfront at year one or over the lifetime of the trust. Either way, actuarially the amount of tax relief comes to the same. The issue of tax relief is therefore more important for the CRT where there is no tax relief at all or scarcely. This makes gaining tax relief for CRTs significant.

Nicolas Browne-Wilkinson

There are CRTs, CLTs and Annuity Trusts which can all be considered and there is no objection in principle to any of these. The purpose of this summit is to concentrate on CRTs.

Caroline Butler – Lord North Street Limited

CLTs will be of interest to donors at one period of their life. CRTs will be of interest at another. So if donors are only given one option then less money will be given to charity.

Nicholas Goodison

I agree that the six points that Caroline Butler made are all extremely important. Most donors were worried about the complications of CRTs. I welcome the leaving out of CLTs because they bring in forms of complications which could never be solved, because the Treasury and Inland Revenue would spend years working things out. Annuity income also has potential to bring in all sorts of complications that the Revenue would puzzle over for a very long time, producing multiple clauses in any legislation. Has James Kessler asked the question throughout – is this complication really necessary? Could we not, for example, confine the income to the actual income which is so much easier?

James Kessler QC

The tax proposals may seem complicated but any tax lawyer would say that they were relatively simple. On the specific point about fixed annuities as opposed to taking the income interest, I agree, it would be a simplification if we took that out. The reason it is there is because it is the American system and I thought there would be some demand for it. If there were no demand for it, we could take it out and it would simplify matters.

Caroline Butler – Lord North Street Limited

To avoid abuse you'd want to prevent totally speculative investments being made. On the other hand, if you limit it only to the income that was derived by the fund at the time then you might find that there was a temptation to creep up the risk scale in terms of the investments that were being made, and within a permissible amount. Annuity has a bad name. If it is an annuity at the actuarial level that's one number. If it is a fixed amount from which you've effectively calculated the remainder that would go to charity and that's the amount that the individual concerned needs to live, then it would be very important for the individual to derive that amount which might be more than the income.

Nicolas Browne-Wilkinson

This form of giving is not just for the elite or extremely rich. There are real advantages to the much smaller giver. You are giving to charity whilst ensuring your maintenance for the remainder of your life.

6. Charitable Gift Annuities

Don Kirkwood – London Business School

On the point of simplicity, has the charitable gift annuity been discussed? It is much simpler and does not require lawyers to set up. This gives benefits to the average donor.

Nicolas Browne-Wilkinson

The annuity scheme has only recently come to the notice of the Institute for Philanthropy. It definitely has potential to increase and aid the giving of the small giver.

Richard Cassell – Withers LLP

Charitable Gift Annuities (CGAs) in the US are the same type of animal as the CRT. So if legislation to introduce CRTs was passed it would be simple to follow with introducing gift annuities. CGAs are simply a more democratic version of a CRT.

Caroline Butler – Lord North Street Limited

Responding to the question on the mass affluent, I spoke to a number of Independent Financial Advisers who dealt with individuals who had £100-150,000. They valued the opportunity that CRTs would give for discussing giving to charity with their clients in a way that would interest people. Particularly if the gift annuity were available, as it is a simple form of giving to charity that could be used to give for example £5-10,000 to charity.

Nicolas Browne-Wilkinson

If you could give money to charity in return for charity giving you an assured annuity, is that a useful way of providing for your pension?

Caroline Butler – Lord North Street Limited

It depends if the charity has the availability, and so might favour larger charities with the capacity to deal with this. But it would present charities with an interesting way of raising money.

Gretchen Clayton – Goldman Sachs International

Gift annuities and CRTs are both good vehicles but they apply to different donor markets. When considering retirement planning, people will want to operate on a large scale and therefore would be more likely to invest in a CRT as the donor retains control over the investment. People who gave to gift annuities gave smaller amounts and are less likely to want to put their capital to pay for retirement into the hands of a charity.

7. Flexibility to change beneficiary charity once CRT is set up

David Kaye

I would want to ensure that the charity to benefit from the CRT could be changed.

Sam Macdonald – Farrer & Co

The suggestion that a donor was able to change the charity which benefits from the CRT would undermine much of what makes CRTs attractive. The idea is that a CRT should be able to be banked by the charity.

Andrew Watt – Institute of Fundraising

The freedom for the donor to change the charity that benefits from a CRT would mean that CRTs were no more secure than a legacy.

James Kessler QC

A donor could have the flexibility to set up a CRT and specify that the benefiting charity cannot be changed. There could remain the option for the donor to change the charity that benefits. If a donor wanted flexibility he could set up a charitable foundation and make that the beneficiary. Then the foundation could chose where the money goes. So it would be difficult to stop that type of flexibility.

8. Assets committed to CRT cannot be reclaimed by donor

Stuart Wheeler

If the donor were to give his house to a CRT and then run out of money and need to sell his house is there anything that can be done about that?

James Kessler QC

No! Donors cannot give to charity and benefit from tax relief and keep the power to get the gift to charity back.

Summing-up

Nicolas Browne-Wilkinson

An outright gift to charity has always attracted tax relief. Therefore when considering a CRT there is no reason why the part of the gift that goes to charity should not benefit from tax relief. There is plenty of logical support for this idea. However, there is a fear that this is a rich man's charter. It is important to verify that this is beneficial not just to the rich man but to any man who, for example, might have a house and wish to give it to charity. Both donor and charity value the potential to build a long-term relationship during the donor's lifetime. We therefore need to persuade the Treasury that this is a proper form of tax relief and one that is not capable of outrageous abuse.