

SAMPLE CHARITABLE LEAD UNITRUST FORMS FROM IRS

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The Treasury and Internal Revenue Service are continuing in a project to provide sample forms for various uses that the IRS has determined are acceptable and can be used without being challenged by them. Most recently, the Service has issued two Revenue procedures: Rev. Proc. 2008-45, 2008-30 IRB224, and Rev. Proc. 2008-46, 2008-30 IRB238, both released July 28, 2008. In those, the Service is providing sample Charitable Lead Unitrust Forms. The first Rev. Proc. provides inter vivos forms and the second provides testamentary forms.

The forms are annotated and explain their purposes. For example, in the first of those two Revenue procedures, the IRS defines the Charitable Lead Unitrust Form as “an irrevocable split interest trust that provides for a specified amount to be paid to one or more charitable beneficiaries during the term of the trust. The principal remaining in the trust at the end of the term is paid over to, or held in a continuing trust for, a non-charitable beneficiary or beneficiaries identified in the trust.” The annotations continue by giving guidance on whether and to what extent there may be charitable deductions, and the annotations explain, in the inter vivos trust forms, the difference between a grantor CLUT and a non-grantor CLUT.

In both of the Revenue procedures, the IRS has indicated that, in general, it will not issue private letter rulings for the inter vivos or testamentary CLUTs to the extent that they use these standard forms. They did, however, say they would issue letter rulings related to the tax consequences of the inclusion in the CLUT document of substantive trust provisions other than those contained in the sample documents.

These unitrust forms complement the Charitable Lead Annuity Trust Forms, both inter vivos and testamentary, issued on June 22, 2007, in Rev. Proc. 2007-45, 2007-29 IRB1, and Rev. Proc. 2007-46, 2007-29 IRB1.