



Ressourcement, Inc.

Jeffrey Barefoot, JD, CPA, CFP
President
885 Commerce Drive
Suite A
Perrysburg, OH 43551
419-874-9300
jbarefoot@ressourcementinc.com
Ressourcementinc.com

Net Income with Makeup Charitable Remainder Unitrust (NIMCRUT)

Net Income with Makeup Charitable Remainder Unitrust (NIMCRUT)

What is a NIMCRUT?

A net income with makeup charitable remainder unitrust (NIMCRUT) is one variation on the standard CRUT. A NIMCRUT pays out income to the income beneficiary only when it produces income. Specifically, the trustee can pay the income beneficiary the lesser of the specified percentage of trust assets or the actual income earned by the trust in a given year (i.e., dividends and/or interest). If the annual income earned by the trust is more than the specified percentage required to be paid, the excess is added to the trust assets. If the annual income earned by the trust is less than the specified percentage, the difference can be paid out in later years when the trust income exceeds the specified percentage. In this way, there is a makeup of the payment.

How does it work?

Example(s): Fred establishes a trust with \$100,000, directing the trust to pay his income beneficiary, Pat, 7 percent of the trust assets for life. Assume that in year one, the value of trust assets is \$100,000 and the trust's earned income is \$8,000. In year two, the value of trust assets is \$130,000 and the trust's earned income is \$5,000. In year three, the value of trust assets is \$130,000 and the trust's earned income is \$15,000.

- Under a standard CRUT, the trust owes Pat the specified percentage of trust assets--\$7,000 in year one (7 percent of \$100,000), \$9,100 in year two (7 percent of \$130,000), and \$9,100 in year three (7 percent of \$130,000). The earnings of the trust in years one and three are enough to meet these payments. However, in year two, the trust earns only \$5,000. Thus, Pat will receive only \$5,000, unless the trustee decides to invade the principal to make up the difference.
- Under a NIMCRUT, the trust owes Pat the lesser of the specified percentage of trust assets or the actual income earned by the trust. In year one, the trust earns \$8,000, so \$7,000 (7 percent of \$100,000) will be paid out and the excess \$1,000 will be added back to the trust assets. In year two, Pat will receive \$5,000 (the trust's earned income), and the trustee is prohibited from invading the principal to make up the difference of \$4,100 that Pat would have received under the specified percentage method. However, Pat will receive a credit for \$4,100 that the trustee can make up in future years when the trust income exceeds the specified percentage. In year three, Pat will receive \$9,100 (7 percent of \$130,000). The trust's income in the third year exceeds the required payment by \$5,900, so this \$5,900 can be used to make up the \$4,100 from year two. The excess \$1,800 after the make up will then be added back to the trust assets.
- In a NI-CRUT, or Net Income Charitable Remainder Unitrust, the trust also owes Pat the lesser of the specified percentage of trust assets or the actual income earned by the trust. In year one, the trust will pay Pat \$7,000 (7 percent of \$100,000), and the excess \$1,000 will be added back to the trust assets. This result is the same as with the NIMCRUT. However, things change in years two and three. In year two, Pat will receive \$5,000 (the trust's earned income). Not only is the trustee forbidden from invading the principal to pay the difference, but also Pat is not entitled to a make up of the difference in subsequent years when the trust income exceeds the specified percentage. It is permanently lost. In year three, Pat will receive \$9,100 (7 percent of \$130,000), and the excess \$5,900 will be added back to the trust assets.

Additional information

A NIMCRUT is not subject to the rule of a standard CRUT that the trustee must pay the income beneficiary in the same taxable year the payment is due. Instead, the trustee of a NIMCRUT can pay the income beneficiary "within a reasonable time" after the close of the taxable year. So, the trustee can make the first-year payment early in the second year.

Tip: A NIMCRUT can be used in retirement planning. The trust assets are invested in growth stocks during preretirement years, producing little or no income. Thus, the income beneficiary is not paid. Then, upon retirement, the growth assets are sold (with no capital gain tax) and invested in income-producing assets. Income is then available to pay the beneficiary, and more importantly, excess trust income in these years can be used to make up for the years in which income was foregone.

Technical Note: IRS regulations require that any proceeds from the sale or exchange of an asset contributed to a NIMCRUT be allocated to principal and not to trust income. Thus, these proceeds are not available as income with which to pay the income beneficiary. By contrast, any proceeds from the sale or exchange of an asset acquired by the NIMCRUT may be allocated to trust income. Thus, these proceeds are available to pay the income beneficiary.

Securities and investment advisory services offered through M. Holdings Securities, Inc., a registered Broker/Dealer and Investment Advisor, Member FINRA/SIPC. Ressourcement, Inc. is independently owned and operated. This material is intended for informational purposes and should not be construed as legal or tax advice. It is not intended to replace the advice of a qualified attorney, tax advisor or plan provider.



Ressourcement, Inc.
Jeffrey Barefoot, JD, CPA, CFP
President
885 Commerce Drive
Suite A
Perrysburg, OH 43551
419-874-9300
jbarefoot@ressourcementinc.com
Ressourcementinc.com