
**The
American
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Trust
and Estate
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The summary of each state's laws reflected in this study has been based on opinion received from a reporter for that state. With rare exceptions, reporters are Fellows of the College from that state. Following the reporter's name is the date as of which that state's material was most recently reviewed. Neither the College nor the individual reporters and editors (who have volunteered their time and experience in the preparation of the studies) assume any responsibility for the accuracy of the information contained in any study.

Study 22:

Charitable Remainder Trusts

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Charitable Remainder Trusts

	Ala.	Alaska	Ariz.	Ark.	Calif.	Colo.	Conn.	Del.
1. Registration of charitable remainder trusts with the state is:								
a. Required		X ¹⁷				X ⁴⁶		
b. Not required	X		X	X	X		X	X
c. Optional								
2. The payment of initial fees to the state, on behalf of charitable remainder trusts, is:								
a. Required		X ¹⁸				X ⁴⁷		
b. Not required	X		X	X	X		X	X
c. Optional								
3. The annual submission of financial reports of charitable remainder trusts to the state is:								
a. Required					X ³⁶			
b. Not required	X	X	X	X		X	X	X ⁶⁸
c. Optional								
4. The payment of annual fees to the state, on behalf of charitable remainder trusts, is:								
a. Required								
b. Not required	X	X	X	X	X	X	X	X
c. Optional								
5. Does the state retain any affirmative investigatory authority over charitable remainder trusts?								
a. Yes					X ³⁷		X ⁵⁶	X ⁶⁹
b. No	X ¹	X ¹⁹	X	X		X ⁴⁸		
6. Is notice to the charitable beneficiary required?								
a. Yes, at the time the trust is established					X ³⁸			
b. Yes, but not necessarily at the time the trust is established		X ²⁰					X ⁵⁷	
c. No	X ²		X	X		X ⁴⁹		X

Charitable Remainder Trusts

	Ala.	Alaska	Ariz.	Ark.	Calif.	Colo.	Conn.	Del.
7. Does the state income tax treatment of charitable remainder trusts "mirror" federal income tax treatment?								
a. Yes	X ³		X	X	X	X ⁵⁰		X ⁷⁰
b. No		X ²¹						
c. Somewhat							X ⁵⁸	
8. Does the state transfer tax treatment of charitable remainder trusts "mirror" federal transfer tax treatment?								
a. Yes			X			X ⁵¹		
b. No								X ⁷¹
c. Somewhat	X ⁴	X ²²		X ³²	X ³⁹		X ⁵⁹	
9. Do all the state laws directed at charities apply to charitable remainder trusts as well?								
a. Yes								
b. No		X	X ²⁸	X ³³	X ⁴⁰	X ⁵²	X	
c. N/A	X							X ⁷²
10. May the charitable trust give the donor the authority to change the charitable beneficiary at any time after the trust has been established?								
a. Yes	X ⁵	X ²³	X	X	X	X ⁵³	X ⁶⁰	X ⁷³
b. No								
11. May the charitable beneficiary be changed by the donor after the trust has been established if the trust is silent on that authority?								
a. Yes								
b. No	X ⁶	X ²⁴	X ²⁹	X	X	X ⁵³	X ⁶¹	X ⁷⁴
12. May the charitable beneficiary be changed by the trustee, at any time, if the trust is silent on that authority?								
a. Yes								
b. No	X ⁶	X ²⁵	X ²⁹	X	X	X ⁵³	X ⁶¹	X ⁷⁴

Charitable Remainder Trusts

	Ala.	Alaska	Ariz.	Ark.	Cal.	Colo.	Conn.	Del.
13. May the charitable beneficiary be changed by the trustee, at any time, if the trust gives the trustee that authority?								
a. Yes	X ⁷	X ²³	X		X		X ⁶⁰	X ⁷³
b. No				X ³⁴		X ⁵³		
14. May the trust provide only that the charitable beneficiary be a qualified charitable donee and give the trustee the discretion to designate the charity at a later date?								
a. Yes	X ⁸	X ²³	X	X	X		X ⁶⁰	X ⁷³
b. No						X ⁵³		
15. May the trust list several charitable beneficiaries and give the trustee the discretion to designate the charitable beneficiary from among those listed organizations?								
a. Yes	X ⁹	X ²³	X	X	X		X ⁶⁰	X ⁷³
b. No						X ⁵³		
16. Are amendments of a charitable remainder trust by the grantor permitted?								
a. Yes	X ¹⁰	X ²³						X ⁷⁵
b. No							X ⁶²	
c. Depends on what provision is being amended			X ³⁰	X ³⁵	X ⁴¹	X ⁵³		
17. Are amendments of a charitable remainder trust by the trustee permitted?								
a. Yes		X ²³	X ³¹					X ⁷⁶
b. No						X ⁵³		
c. Depends on what provision is being amended	X ¹¹			X ³⁵	X ⁴²		X ⁶³	
18. Are amendments subject to approval by the state?								
a. Yes						X ⁵⁴	X ⁶⁴	
b. No	X ¹²	X	X	X	X			X

Charitable Remainder Trusts

	Ala.	Alaska	Ariz.	Ark.	Calif.	Colo.	Conn.	Del.
19. Are amendments subject to approval by the charitable beneficiary?								
a. Yes				X			X ⁶⁵	
b. No	X ¹²	X	X ³⁰		X ⁴³	X		X
20. Are there any restrictions on the kinds of property that can be used to fund a charitable remainder trust?								
a. Yes							X ⁶⁶	
b. No	X ¹³	X ²⁶	X	X	X ⁴⁴	X		X
21. Are there any special limitations on who can qualify as the trustee of a charitable remainder trust, beyond general state law trustee requirements?								
a. Yes								
b. No	X ¹⁴	X	X	X	X	X	X	X
22. Are there any limitations on the size of the noncharitable income interest that will be permitted?								
a. Yes								
b. No	X ¹⁵	X	X	X	X ⁴⁴	X	X	X
23. Are there any restrictions on the duration of charitable remainder trusts?								
a. Yes	X ¹⁶				X ⁴⁵		X ⁶⁷	
b. No		X ²⁷	X	X		X ⁵⁵		X ⁷⁷

Charitable Remainder Trusts

	D.C.	Fla.	Ga.	Hawaii	Idaho	Ill.	Ind.	Iowa
1. Registration of charitable remainder trusts with the state is:								
a. Required					X ¹¹²	X ¹²³		X ¹⁴²
b. Not required	X	X	X				X	
c. Optional				X				
2. The payment of initial fees to the state, on behalf of charitable remainder trusts, is:								
a. Required								
b. Not required	X	X	X	X	X	X	X	X
c. Optional								
3. The annual submission of financial reports of charitable remainder trusts to the state is:								
a. Required			X ⁹⁷			X ¹²⁴		
b. Not required	X	X		X	X		X	X
c. Optional								
4. The payment of annual fees to the state, on behalf of charitable remainder trusts, is:								
a. Required								
b. Not required	X	X	X	X	X	X	X	X
c. Optional								
5. Does the state retain any affirmative investigatory authority over charitable remainder trusts?								
a. Yes			X ⁹⁸		X ¹¹³	X ¹²⁵		X ¹⁴³
b. No	X ⁷⁸	X		X			X	
6. Is notice to the charitable beneficiary required?								
a. Yes, at the time the trust is established		X ⁹⁷						
b. Yes, but not necessarily at the time the trust is established				X				X ¹⁴⁴
c. No	X		X		X ¹¹⁴	X	X ¹³⁴	

Charitable Remainder Trusts

	D.C.	Fla.	Ga.	Hawaii	Idaho	Ill.	Ind.	Iowa
7. Does the state income tax treatment of charitable remainder trusts "mirror" federal income tax treatment?								
a. Yes	X ⁷⁹		X ⁹⁹	X	X ¹¹⁵	X ¹²⁶	X	X ¹⁴⁵
b. No		X ⁸⁸						
c. Somewhat								
8. Does the state transfer tax treatment of charitable remainder trusts "mirror" federal transfer tax treatment?								
a. Yes		X	X ¹⁰⁰	X	X ¹¹⁶	X ¹²⁷		
b. No	X ⁸⁰							
c. Somewhat							X ¹³⁵	X ¹⁴⁶
9. Do all the state laws directed at charities apply to charitable remainder trusts as well?								
a. Yes				X		X ¹²⁸		X ¹⁴⁷
b. No	X	X ⁸⁹	X ¹⁰¹		X		X	
c. N/A								
10. May the charitable trust give the donor the authority to change the charitable beneficiary at any time after the trust has been established?								
a. Yes	X	X ⁹⁰	X ¹⁰²	X	X ¹¹⁷	X ¹²⁹	X	X ¹⁴⁸
b. No								
11. May the charitable beneficiary be changed by the donor after the trust has been established if the trust is silent on that authority?								
a. Yes			X ¹⁰³					
b. No	X ⁸¹	X ⁹¹	X ¹⁰³	X	X	X ¹³⁰	X	X ¹⁴⁸
12. May the charitable beneficiary be changed by the trustee, at any time, if the trust is silent on that authority?								
a. Yes			X ¹⁰⁴					
b. No	X ⁸²	X ⁹¹	X ¹⁰⁴	X	X	X ¹³⁰	X	X ¹⁴⁸

Charitable Remainder Trusts

	D.C.	Fla.	Ga.	Hawaii	Idaho	Ill.	Ind.	Iowa
13. May the charitable beneficiary be changed by the trustee, at any time, if the trust gives the trustee that authority?								
a. Yes	X	X ⁹⁰	X ¹⁰³	X	X ¹¹⁸	X ¹²⁹	X	X ¹⁴⁸
b. No								
14. May the trust provide only that the charitable beneficiary be a qualified charitable donee and give the trustee the discretion to designate the charity at a later date?								
a. Yes	X	X ⁹²	X ¹⁰³	X			X	X ¹⁴⁸
b. No					X ¹¹⁹	X ¹³⁰		
15. May the trust list several charitable beneficiaries and give the trustee the discretion to designate the charitable beneficiary from among those listed organizations?								
a. Yes	X ⁸³	X ⁹²	X ¹⁰³	X	X ¹²⁰	X ¹²⁹	X	X ¹⁴⁸
b. No								
16. Are amendments of a charitable remainder trust by the grantor permitted?								
a. Yes		X ⁹³	X ¹⁰⁵					
b. No	X				X	X ¹³¹	X ¹³⁶	
c. Depends on what provision is being amended				X ¹⁰⁹				X ¹⁴⁹
17. Are amendments of a charitable remainder trust by the trustee permitted?								
a. Yes	X ⁸⁴	X ⁹⁴						
b. No					X ¹²¹			
c. Depends on what provision is being amended			X ¹⁰⁶	X		X ¹³²	X ¹³⁷	X ¹⁴⁹
18. Are amendments subject to approval by the state?								
a. Yes				X ¹¹⁰			X ¹³⁸	
b. No	X	X ⁹⁵	X ¹⁰⁷		X ¹²²	X		X

Charitable Remainder Trusts

	D.C.	Fla.	Ga.	Hawaii	Idaho	Ill.	Ind.	Iowa
19. Are amendments subject to approval by the charitable beneficiary?								
a. Yes		X ⁹⁴					X ¹³⁹	
b. No	X ⁸⁵		X ¹⁰⁷	X	X	X ¹³³		X
20. Are there any restrictions on the kinds of property that can be used to fund a charitable remainder trust?								
a. Yes								
b. No	X	X	X	X	X	X	X ¹⁴⁰	X ¹⁴⁸
21. Are there any special limitations on who can qualify as the trustee of a charitable remainder trust, beyond general state law trustee requirements?								
a. Yes								
b. No	X	X	X	X	X	X	X	X
22. Are there any limitations on the size of the noncharitable income interest that will be permitted?								
a. Yes								X ¹⁵⁰
b. No	X	X	X	X	X	X	X	
23. Are there any restrictions on the duration of charitable remainder trusts?					?			
a. Yes				X ¹¹¹			X ¹⁴¹	
b. No	X ⁸⁶	X ⁹⁶	X ¹⁰⁸			X		X ¹⁵¹

Charitable Remainder Trusts

	Kan.	Ky.	La.	Maine	Md.	Mass.	Mich.	Minn.
1. Registration of charitable remainder trusts with the state is:								
a. Required								
b. Not required	X	X	X	X ¹⁷³	X ¹⁸⁵	X	X	X ²²⁴
c. Optional								
2. The payment of initial fees to the state, on behalf of charitable remainder trusts, is:								
a. Required								
b. Not required	X	X	X	X	X ¹⁸⁶	X	X	X
c. Optional								
3. The annual submission of financial reports of charitable remainder trusts to the state is:								
a. Required								
b. Not required	X	X	X	X	X ¹⁸⁷	X	X	X
c. Optional								
4. The payment of annual fees to the state, on behalf of charitable remainder trusts, is:								
a. Required								
b. Not required	X	X	X	X	X	X	X	X
c. Optional								
5. Does the state retain any affirmative investigatory authority over charitable remainder trusts?								
a. Yes	X ¹⁵²			X ¹⁷⁴	X ¹⁸⁸	X ²⁰⁰	X ²¹³	X ²²⁵
b. No		X	X ¹⁶⁴					
6. Is notice to the charitable beneficiary required?								
a. Yes, at the time the trust is established								
b. Yes, but not necessarily at the time the trust is established						X ²⁰¹	X ²¹⁴	
c. No	X ¹⁵³	X	X	X ¹⁷⁵	X ¹⁸⁹			X ²²⁶

Charitable Remainder Trusts

	Kan.	Ky.	La.	Maine	Md.	Mass.	Mich.	Minn.
7. Does the state income tax treatment of charitable remainder trusts "mirror" federal income tax treatment?								
a. Yes		X	X ¹⁶⁵	X	X ¹⁹⁰		X	X
b. No								
c. Somewhat	X ¹⁵⁴					X ²⁰²		
8. Does the state transfer tax treatment of charitable remainder trusts "mirror" federal transfer tax treatment?								
a. Yes			X ¹⁶⁶	X ¹⁷⁶		X ²⁰³	X ²¹⁵	
b. No		X ¹⁶²						
c. Somewhat	X ¹⁵⁵				X ¹⁹¹			X ²²⁷
9. Do all the state laws directed at charities apply to charitable remainder trusts as well?								
a. Yes				X				X ²²⁸
b. No	X ¹⁵⁶	X	X		X	X ²⁰⁴	X ²¹⁶	
c. N/A								
10. May the charitable trust give the donor the authority to change the charitable beneficiary at any time after the trust has been established?								
a. Yes	X ¹⁵⁷	X	X ¹⁶⁷	X ¹⁷⁷	X ¹⁹²	X ²⁰⁵	X ²¹⁷	X
b. No								
11. May the charitable beneficiary be changed by the donor after the trust has been established if the trust is silent on that authority?								
a. Yes							X ²¹⁸	
b. No	X ¹⁵⁸	X	X	X ¹⁷⁸	X ¹⁹³	X ²⁰⁶		X
12. May the charitable beneficiary be changed by the trustee, at any time, if the trust is silent on that authority?								
a. Yes							X ²¹⁸	
b. No	X ¹⁵⁸	X	X	X ¹⁷⁹	X	X ²⁰⁷		X ²²⁹

Charitable Remainder Trusts

	Kan.	Ky.	La.	Maine	Md.	Mass.	Mich.	Minn.
13. May the charitable beneficiary be changed by the trustee, at any time, if the trust gives the trustee that authority?								
a. Yes	X	X	X ¹⁶⁸	X ¹⁸⁰	X ¹⁹⁴	X	X ²¹⁷	X
b. No								
14. May the trust provide only that the charitable beneficiary be a qualified charitable donee and give the trustee the discretion to designate the charity at a later date?								
a. Yes	X	X	X ¹⁶⁸	X ¹⁸¹	X ¹⁹⁵	X	X ²¹⁷	X
b. No								
15. May the trust list several charitable beneficiaries and give the trustee the discretion to designate the charitable beneficiary from among those listed organizations?								
a. Yes	X ¹⁵⁷	X	X ¹⁶⁸	X ¹⁸¹	X ¹⁹⁵	X	X ²¹⁷	X
b. No								
16. Are amendments of a charitable remainder trust by the grantor permitted?								
a. Yes	X ¹⁵⁹	X ¹⁶³	X ¹⁶⁹	X ¹⁸²		X ²⁰⁸	X ²¹⁹	X ²³⁰
b. No								
c. Depends on what provision is being amended					X ¹⁹⁶			
17. Are amendments of a charitable remainder trust by the trustee permitted?								
a. Yes	X ¹⁵⁹	X ¹⁶³	X ¹⁷⁰	X ¹⁸³		X ²⁰⁹	X ²¹⁹	X ²³¹
b. No				X ¹⁸³				
c. Depends on what provision is being amended					X ¹⁹⁷			
18. Are amendments subject to approval by the state?								
a. Yes							X ²²⁰	
b. No	X	X	X	X	X	X ²¹⁰		X

Charitable Remainder Trusts

	Kan.	Ky.	La.	Maine	Md.	Mass.	Mich.	Minn.
19. Are amendments subject to approval by the charitable beneficiary?								
a. Yes				X ¹⁸³			X ²²¹	
b. No	X	X	X	X ¹⁸³	X ¹⁹⁸	X ²¹¹		X
20. Are there any restrictions on the kinds of property that can be used to fund a charitable remainder trust?								
a. Yes	X ¹⁶⁰							
b. No		X	X	X ¹⁸⁴	X	X	X ²¹⁷	X
21. Are there any special limitations on who can qualify as the trustee of a charitable remainder trust, beyond general state law trustee requirements?								
a. Yes								
b. No	X	X	X ¹⁷¹	X	X	X	X ²²²	X
22. Are there any limitations on the size of the noncharitable income interest that will be permitted?								
a. Yes								
b. No	X	X	X	X	X	X	X ²¹⁷	X
23. Are there any restrictions on the duration of charitable remainder trusts?								
a. Yes								
b. No	X ¹⁶¹	X	X ¹⁷²	X	X ¹⁹⁹	X ²¹²	X ²²³	X ²³²

Charitable Remainder Trusts

	Miss.	Mo.	Mont.	Neb.	Nev.	N.H.	N.J.	N.M.
1. Registration of charitable remainder trusts with the state is:								
a. Required								
b. Not required	X	X	X	X	X	X ³⁰⁰	X	X
c. Optional		X ²³⁷						
2. The payment of initial fees to the state, on behalf of charitable remainder trusts, is:								
a. Required								
b. Not required	X	X	X	X	X	X ²⁹¹	X	X
c. Optional								
3. The annual submission of financial reports of charitable remainder trusts to the state is:								
a. Required								
b. Not required	X	X	X	X	X	X ²⁹²	X	X
c. Optional								
4. The payment of annual fees to the state, on behalf of charitable remainder trusts, is:								
a. Required								
b. Not required	X	X	X	X	X	X ²⁹²	X	X
c. Optional								
5. Does the state retain any affirmative investigatory authority over charitable remainder trusts?								
a. Yes		X ²³⁸		X ²⁶⁶			X ³⁰⁵	?
b. No	X		X ²⁵¹		X ²⁷⁹	X ²⁹³		?
6. Is notice to the charitable beneficiary required?								
a. Yes, at the time the trust is established								
b. Yes, but not necessarily at the time the trust is established			X ²⁵²					
c. No	X ²³³	X		X ²⁶⁷	X ²⁸⁰	X ²⁹⁴	X ³⁰⁶	X

Charitable Remainder Trusts

	Miss.	Mo.	Mont.	Neb.	Nev.	N.H.	N.J.	N.M.
7. Does the state income tax treatment of charitable remainder trusts "mirror" federal income tax treatment?								
a. Yes	X ²³⁴	X ²³⁹	X ²⁵³	X ²⁶⁸				X ³¹¹
b. No					X ²⁸¹	X ²⁹⁵	X ³⁰⁷	
c. Somewhat								
8. Does the state transfer tax treatment of charitable remainder trusts "mirror" federal transfer tax treatment?								
a. Yes		X ²⁴⁰	X ²⁵⁴	X ²⁶⁹			X	X
b. No	N/A				X ²⁸²	X ²⁹⁶		
c. Somewhat								
9. Do all the state laws directed at charities apply to charitable remainder trusts as well?								
a. Yes								
b. No	X ²³⁵	X ²⁴¹	X ²⁵⁵	X ²⁷⁰	X		X	X ³¹²
c. N/A						X ²⁹⁷		
10. May the charitable trust give the donor the authority to change the charitable beneficiary at any time after the trust has been established?								
a. Yes	X	X ²⁴²	X ²⁵⁶	X ²⁷¹	X	X ²⁹⁸	X	X ³¹³
b. No								
11. May the charitable beneficiary be changed by the donor after the trust has been established if the trust is silent on that authority?								
a. Yes	X							X ³¹⁴
b. No		X ²⁴³	X ²⁵⁷				X	
c. N/A				X ²⁷²	X ²⁸³	X ²⁹⁹		
12. May the charitable beneficiary be changed by the trustee, at any time, if the trust is silent on that authority?								
a. Yes	X			X ²⁷³				X ³¹⁴
b. No		X ²⁴⁴	X ²⁵⁷		X		X	
c. N/A						X ²⁹⁹		

Charitable Remainder Trusts

	Miss.	Mo.	Mont.	Neb.	Nev.	N.H.	N.J.	N.M.
13. May the charitable beneficiary be changed by the trustee, at any time, if the trust gives the trustee that authority?								
a. Yes	X	X ²⁴⁵	X ²⁵⁸	X ²⁷⁴	X	X ³⁰⁰	X	X ³¹⁵
b. No								
14. May the trust provide only that the charitable beneficiary be a qualified charitable donee and give the trustee the discretion to designate the charity at a later date?								
a. Yes	X	X ²⁴⁶	X ²⁵⁹	X ²⁷⁵	X ²⁸⁴	X ³⁰⁰	X	X ³¹⁵
b. No								
15. May the trust list several charitable beneficiaries and give the trustee the discretion to designate the charitable beneficiary from among those listed organizations?								
a. Yes	X	X ²⁴⁷	X ²⁵⁹	X	X	X ³⁰⁰	X	X ³¹⁵
b. No								
16. Are amendments of a charitable remainder trust by the grantor permitted?								
a. Yes	X			X ²⁷⁶		X ³⁰¹	X ³⁰⁸	
b. No			X ²⁶⁰					
c. Depends on what provision is being amended		X ²⁴⁸			X ²⁸⁵			X ³¹⁶
17. Are amendments of a charitable remainder trust by the trustee permitted?								
a. Yes			X ²⁶¹	X ²⁷⁷	X ²⁸⁶	X ³⁰¹	X ³⁰⁸	
b. No								
c. Depends on what provision is being amended	X ²³⁶	X ²⁴⁹						X ³¹⁷
18. Are amendments subject to approval by the state?								
a. Yes			X ²⁶²		X ²⁸⁷			
b. No	X	X		X		X ³⁰²	X ³⁰⁹	X

Charitable Remainder Trusts

	Miss.	Mo.	Mont.	Neb.	Nev.	N.H.	N.J.	N.M.
19. Are amendments subject to approval by the charitable beneficiary?								
a. Yes			X ²⁶³	X ²⁷⁸			X	
b. No	X	X			X ²⁸⁸	X ³⁰³		X
20. Are there any restrictions on the kinds of property that can be used to fund a charitable remainder trust?								
a. Yes								
b. No	X	X	X ²⁶⁴	X	X ²⁸⁹	X	X	X
21. Are there any special limitations on who can qualify as the trustee of a charitable remainder trust, beyond general state law trustee requirements?								
a. Yes								
b. No	X	X	X	X	X	X	X	X
22. Are there any limitations on the size of the noncharitable income interest that will be permitted?								
a. Yes								
b. No	X	X	X	X	X	X ³⁰⁴	X	X
23. Are there any restrictions on the duration of charitable remainder trusts?								
a. Yes			X ²⁶⁵				X ³¹⁰	X ³¹⁸
b. No	X	X ²⁵⁰		X	X ²⁹⁰	X		

Charitable Remainder Trusts

	N.Y.	N.C.	N.D.	Ohio	Okla.	Ore.	Pa.	R.I.
1. Registration of charitable remainder trusts with the state is:								
a. Required			X ³³⁶	X ³⁵⁵		X ³⁹⁰		X ⁴¹⁸
b. Not required	X ³¹⁹	X			X ³⁷²		X	
c. Optional								
2. The payment of initial fees to the state, on behalf of charitable remainder trusts, is:								
a. Required			X ³³⁷			X ³⁹¹		X ⁴¹⁸
b. Not required	X ³²⁰	X		X	X ³⁷³		X	
c. Optional								
3. The annual submission of financial reports of charitable remainder trusts to the state is:								
a. Required						X ³⁹²		X ⁴¹⁹
b. Not required	X ³²⁰	X	X ³³⁸	X ³⁵⁶	X ³⁷⁴		X	
c. Optional								
4. The payment of annual fees to the state, on behalf of charitable remainder trusts, is:								
a. Required						X ³⁹¹		X ⁴¹⁹
b. Not required	X ³²⁰	X	X	X ³⁵⁷	X ³⁷⁵		X	
c. Optional								
5. Does the state retain any affirmative investigatory authority over charitable remainder trusts?								
a. Yes	X ³²¹			X ³⁵⁸		X ³⁹³		X ⁴²⁰
b. No		X	X ³³⁹		X ³⁷⁶		X ⁴⁰⁸	
6. Is notice to the charitable beneficiary required?								
a. Yes, at the time the trust is established								
b. Yes, but not necessarily at the time the trust is established			X ³⁴⁰					
c. No	X ³²²	X		X ³⁵⁹	X ³⁷⁵	X	X	X ⁴²¹

Charitable Remainder Trusts

	N.Y.	N.C.	N.D.	Ohio	Okla.	Ore.	Pa.	R.I.
7. Does the state income tax treatment of charitable remainder trusts "mirror" federal income tax treatment?								
a. Yes	X ³²³	X ³³³	X ³⁴¹	X ³⁶⁰	X ³⁷⁷	X ³⁹⁴	X	X ⁴²²
b. No								
c. Somewhat								
8. Does the state transfer tax treatment of charitable remainder trusts "mirror" federal transfer tax treatment?								
a. Yes	X ³²⁴	X ³³⁴	X ³⁴²		X ³⁷⁸	X ³⁹⁵	X ⁴⁰⁹	X ⁴²³
b. No								
c. Somewhat				X ³⁶¹				
9. Do all the state laws directed at charities apply to charitable remainder trusts as well?								
a. Yes					X	X ³⁹⁶		X
b. No	X ³²⁵	X	X ³⁴³	X ³⁶²			X	
c. N/A								
10. May the charitable trust give the donor the authority to change the charitable beneficiary at any time after the trust has been established?								
a. Yes	X ³²⁶	X	X ³⁴⁴	X ³⁶³	X ³⁷⁹	X ³⁹⁷	X ⁴¹⁰	X ⁴²⁴
b. No								
11. May the charitable beneficiary be changed by the donor after the trust has been established if the trust is silent on that authority?								
a. Yes								X ⁴²⁵
b. No	X ³²⁷	X	X ³⁴⁵	X	X ³⁸⁰	X ³⁹⁸	X ⁴¹¹	
12. May the charitable beneficiary be changed by the trustee, at any time, if the trust is silent on that authority?								
a. Yes							X ⁴¹²	X ⁴²⁶
b. No	X	X	X ³⁴⁵	X ³⁶⁴	X ³⁸¹	X ³⁹⁹		

Charitable Remainder Trusts

	N.Y.	N.C.	N.D.	Ohio	Okla.	Ore.	Pa.	R.I.
13. May the charitable beneficiary be changed by the trustee, at any time, if the trust gives the trustee that authority?								
a. Yes	X	X	X ³⁴⁶	X	X ³⁸²	X ⁴⁰¹	X	X ⁴²⁷
b. No								
14. May the trust provide only that the charitable beneficiary be a qualified charitable donee and give the trustee the discretion to designate the charity at a later date?								
a. Yes	X ³²⁸	X	X ³⁴⁷	X	X ³⁸³	X ⁴⁰¹	X ⁴¹³	X ⁴²⁷
b. No								
15. May the trust list several charitable beneficiaries and give the trustee the discretion to designate the charitable beneficiary from among those listed organizations?								
a. Yes	X ³²⁹	X	X ³⁴⁸	X	X ³⁸²	X ⁴⁰²	X ⁴¹³	X ⁴²⁷
b. No								
16. Are amendments of a charitable remainder trust by the grantor permitted?								
a. Yes			X ³⁴⁹					
b. No		X		X ³⁶⁵				
c. Depends on what provision is being amended	X ³³⁰				X ³⁸⁴	X ⁴⁰³	X ⁴¹⁴	X ⁴²⁸
17. Are amendments of a charitable remainder trust by the trustee permitted?								
a. Yes	X	X ³³⁵			X ³⁸⁴	X ⁴⁰⁴		
b. No				X ³⁶⁶				
c. Depends on what provision is being amended			X ³⁵⁰				X ⁴¹⁵	X ⁴²⁹
18. Are amendments subject to approval by the state?								
a. Yes					X ³⁸⁵	X ⁴⁰⁵	X ⁴¹⁶	
b. No	X	X	X ³⁵¹	X ³⁶⁷				X ⁴³⁰

Charitable Remainder Trusts

	N.Y.	N.C.	N.D.	Ohio	Okla.	Ore.	Pa.	R.I.
19. Are amendments subject to approval by the charitable beneficiary?								
a. Yes			X ³⁵²		X ³⁸⁶	X ⁴⁰⁵		
b. No	X	X		X ³⁶⁸			X ⁴¹⁷	X
20. Are there any restrictions on the kinds of property that can be used to fund a charitable remainder trust?								
a. Yes			X ³⁵³					
b. No	X ³³¹	X		X ³⁶⁹	X ³⁸⁷	X	X	X
21. Are there any special limitations on who can qualify as the trustee of a charitable remainder trust, beyond general state law trustee requirements?								
a. Yes				X ³⁷⁰	X ³⁸⁸			
b. No	X ³³²	X	X			X ⁴⁰⁶	X	X
22. Are there any limitations on the size of the noncharitable income interest that will be permitted?								
a. Yes								
b. No	X ³³¹	X	X	X	X	X	X	X
23. Are there any restrictions on the duration of charitable remainder trusts?								
a. Yes			X ³⁵⁴	X ³⁷¹		X ⁴⁰⁷		
b. No	X ³³¹	X			X ³⁸⁹		X	X

Charitable Remainder Trusts

	S.C.	S.D.	Tenn.	Texas	Utah	Vt.	Va.	Wash.
1. Registration of charitable remainder trusts with the state is:								
a. Required	X ⁴³¹							
b. Not required		X	X	X	X		X	X ⁵¹³
c. Optional						X ⁴⁸⁴		
2. The payment of initial fees to the state, on behalf of charitable remainder trusts, is:								
a. Required								
b. Not required	X	X	X	X	X	X	X	X
c. Optional								
3. The annual submission of financial reports of charitable remainder trusts to the state is:								
a. Required	X ⁴³²					X ⁴⁸⁵		
b. Not required		X	X	X	X		X ⁴⁹⁸	X ⁵¹⁴
c. Optional								
4. The payment of annual fees to the state, on behalf of charitable remainder trusts, is:								
a. Required								
b. Not required	X	X	X	X	X	X	X	X
c. Optional								
5. Does the state retain any affirmative investigatory authority over charitable remainder trusts?								
a. Yes	X ⁴³³			X ⁴⁶²		X ⁴⁸⁶	X ⁴⁹⁹	
b. No		X	X		X			X
6. Is notice to the charitable beneficiary required?								
a. Yes, at the time the trust is established	X ⁴³⁴		X ⁴⁵⁵		X ⁴⁷¹			
b. Yes, but not necessarily at the time the trust is established						X ⁴⁸⁷	X ⁵⁰⁰	
c. No		X		X				X

Charitable Remainder Trusts

	S.C.	S.D.	Tenn.	Texas	Utah	Vt.	Va.	Wash.
7. Does the state income tax treatment of charitable remainder trusts "mirror" federal income tax treatment?								
a. Yes	X				X ⁴⁷²	X ⁴⁸⁸		
b. No		X ⁴⁴⁷		X ⁴⁶³			X ⁵⁰¹	X ⁵¹⁵
c. Somewhat			X ⁴⁵⁶					
8. Does the state transfer tax treatment of charitable remainder trusts "mirror" federal transfer tax treatment?								
a. Yes	X				X ⁴⁷³			
b. No		X ⁴⁴⁸		X ⁴⁶⁴				
c. Somewhat			X ⁴⁵⁷			X ⁴⁸⁹	X ⁵⁰²	X ⁵¹⁶
9. Do all the state laws directed at charities apply to charitable remainder trusts as well?								
a. Yes		X			X ⁴⁷⁴	X ⁴⁹⁰		
b. No	X ⁴³⁵		X ⁴⁵⁸	X ⁴⁶⁵			X ⁵⁰³	X ⁵¹⁷
c. N/A								
10. May the charitable trust give the donor the authority to change the charitable beneficiary at any time after the trust has been established?								
a. Yes	X ⁴³⁶	X ⁴⁴⁹	X	X	X ⁴⁷⁵	X ⁴⁹¹	X ⁵⁰⁴	X ⁵¹⁸
b. No								
11. May the charitable beneficiary be changed by the donor after the trust has been established if the trust is silent on that authority?								
a. Yes								
b. No	X ⁴³⁷	X ⁴⁵⁰	X	X ⁴⁶⁶	X ⁴⁷⁶	X ⁴⁹²	X ⁵⁰⁵	X ⁵¹⁹
12. May the charitable beneficiary be changed by the trustee, at any time, if the trust is silent on that authority?								
a. Yes								
b. No	X ⁴³⁸	X	X	X ⁴⁶⁶	X ⁴⁷⁷	X ⁴⁹²	X ⁵⁰⁵	X ⁵²⁰

Charitable Remainder Trusts

	S.C.	S.D.	Tenn.	Texas	Utah	Vt.	Va.	Wash.
13. May the charitable beneficiary be changed by the trustee, at any time, if the trust gives the trustee that authority?								
a. Yes	X ⁴³⁹		X	X	X ⁴⁷⁸	X ⁴⁹¹	X ⁵⁰⁴	X ⁵¹⁸
b. No		X ⁴⁵¹						
14. May the trust provide only that the charitable beneficiary be a qualified charitable donee and give the trustee the discretion to designate the charity at a later date?								
a. Yes	X ⁴⁴⁰		X	X ⁴⁶⁷	X ⁴⁷⁹	X ⁴⁹¹	X ⁵⁰⁶	X ⁵¹⁸
b. No		X						
15. May the trust list several charitable beneficiaries and give the trustee the discretion to designate the charitable beneficiary from among those listed organizations?								
a. Yes	X ⁴⁴⁰	X ⁴⁵²	X	X	X ⁴⁷⁸	X ⁴⁹¹	X ⁵⁰⁷	X ⁵¹⁸
b. No								
16. Are amendments of a charitable remainder trust by the grantor permitted?								
a. Yes	X ⁴⁴¹	X ⁴⁵³			X ⁴⁸⁰	X ⁴⁹³		
b. No			X ⁴⁵⁹	X			X ⁵⁰⁸	X ⁵²⁰
c. Depends on what provision is being amended								
17. Are amendments of a charitable remainder trust by the trustee permitted?								
a. Yes	X ⁴⁴²			X ⁴⁶⁸	X ⁴⁸¹	X ⁴⁹⁴		
b. No		X						X ⁵²⁰
c. Depends on what provision is being amended			X ⁴⁶⁰				X ⁵⁰⁹	
18. Are amendments subject to approval by the state?								
a. Yes							X ⁵¹⁰	X ⁵²¹
b. No	X	X	X ⁴⁶¹	X ⁴⁶⁹	X ⁴⁸²	X ⁴⁹⁵		

Charitable Remainder Trusts

	S.C.	S.D.	Tenn.	Texas	Utah	Vt.	Va.	Wash.
19. Are amendments subject to approval by the charitable beneficiary?								
a. Yes			X ⁴⁵⁹	X ⁴⁶⁹				X ⁵²²
b. No	X ⁴⁴³	X ⁴⁵⁴			X	X ⁴⁹⁶	X ⁵¹¹	
20. Are there any restrictions on the kinds of property that can be used to fund a charitable remainder trust?								
a. Yes	X ⁴⁴⁴							
b. No		X	X	X	X ⁴⁸³	X ⁴⁹¹	X	X
21. Are there any special limitations on who can qualify as the trustee of a charitable remainder trust, beyond general state law trustee requirements?								
a. Yes	X ⁴⁴⁵							
b. No		X	X	X	X	X ⁴⁹¹	X	X
22. Are there any limitations on the size of the noncharitable income interest that will be permitted?								
a. Yes								
b. No	X	X	X	X	X	X ⁴⁹¹	X	X
23. Are there any restrictions on the duration of charitable remainder trusts?								
a. Yes				X ⁴⁷⁰			X ⁵¹²	
b. No	X ⁴⁴⁶	X	X		X	X ⁴⁹⁷		X

Charitable Remainder Trusts

	W.Va.	Wis.	Wyo.
1. Registration of charitable remainder trusts with the state is:			
a. Required			
b. Not required	X	X	X
c. Optional			
2. The payment of initial fees to the state, on behalf of charitable remainder trusts, is:			
a. Required			
b. Not required	X	X	X
c. Optional			
3. The annual submission of financial reports of charitable remainder trusts to the state is:			
a. Required			
b. Not required	X ⁵²³	X ⁵³⁵	X
c. Optional			
4. The payment of annual fees to the state, on behalf of charitable remainder trusts, is:			
a. Required			
b. Not required	X	X	X
c. Optional			
5. Does the state retain any affirmative investigatory authority over charitable remainder trusts?			
a. Yes		X ⁵³⁶	
b. No	X		X
6. Is notice to the charitable beneficiary required?			
a. Yes, at the time the trust is established		X ⁵³⁷	
b. Yes, but not necessarily at the time the trust is established			
c. No	X		X ⁵⁵⁰
7. Does the state income tax treatment of charitable remainder trusts "mirror" federal income tax treatment?			
a. Yes	X ⁵²⁴	X	
b. No			X ⁵⁵¹
c. Somewhat			

Charitable Remainder Trusts

	W.Va.	Wis.	Wyo.
8. Does the state transfer tax treatment of charitable remainder trusts "mirror" federal transfer tax treatment?			
a. Yes	X ⁵²⁵	X	
b. No			X ⁵⁵²
c. Somewhat			
9. Do all the state laws directed at charities apply to charitable remainder trusts as well?			
a. Yes			
b. No	X ⁵²⁶	X ⁵³⁸	
c. N/A			X ⁵⁵³
10. May the charitable trust give the donor the authority to change the charitable beneficiary at any time after the trust has been established?			
a. Yes	X ⁵²⁷	X ⁵³⁹	X ⁵⁵⁴
b. No			
11. May the charitable beneficiary be changed by the donor after the trust has been established if the trust is silent on that authority?			
a. Yes		X ⁵⁴⁰	
b. No	X ⁵²⁷		X ⁵⁵⁵
12. May the charitable beneficiary be changed by the trustee, at any time, if the trust is silent on that authority?			
a. Yes			
b. No	X ⁵²⁸	X ⁵⁴¹	X ⁵⁵⁶
13. May the charitable beneficiary be changed by the trustee, at any time, if the trust gives the trustee that authority?			
a. Yes	X ⁵²⁸	X ⁵⁴²	X ⁵⁵⁶
b. No			
14. May the trust provide only that the charitable beneficiary be a qualified charitable donee and give the trustee the discretion to designate the charity at a later date?			
a. Yes		X ⁵⁴³	X ⁵⁵⁷
b. No			
c. N/A	X ⁵²⁹		

Charitable Remainder Trusts

	W.Va.	Wis.	Wyo.
15. May the trust list several charitable beneficiaries and give the trustee the discretion to designate the charitable beneficiary from among those listed organizations?			
a. Yes	X ⁵²⁹	X ⁵⁴⁴	X ⁵⁵⁶
b. No			
16. Are amendments of a charitable remainder trust by the grantor permitted?			
a. Yes	X ⁵³⁰	X ⁵⁴⁵	X ⁵⁵⁸
b. No			
c. Depends on what provision is being amended			
17. Are amendments of a charitable remainder trust by the trustee permitted?			
a. Yes	X ⁵³¹	X ⁵⁴⁶	X ⁵⁵⁹
b. No			
c. Depends on what provision is being amended			
18. Are amendments subject to approval by the state?			
a. Yes			
b. No	X	X ⁵⁴⁷	X
19. Are amendments subject to approval by the charitable beneficiary?			
a. Yes	X ⁵³²	X ⁵⁴⁸	
b. No			X ⁵⁶⁰
20. Are there any restrictions on the kinds of property that can be used to fund a charitable remainder trust?			
a. Yes			
b. No	X ⁵³³	X	X
21. Are there any special limitations on who can qualify as the trustee of a charitable remainder trust, beyond general state law trustee requirements?			
a. Yes			
b. No	X	X	X
22. Are there any limitations on the size of the noncharitable income interest that will be permitted?			
a. Yes			
b. No	X	X	X
23. Are there any restrictions on the duration of charitable remainder trusts?			
a. Yes	X ⁵³⁴		
b. No		X ⁵⁴⁹	X ⁵⁶¹

NOTES

ALABAMA

Elizabeth H. Hutchins
Birmingham, Alabama
April 14, 1998

1. No Alabama law providing for affirmative investigatory authority.
2. No Alabama law requiring notice to charitable beneficiary.
3. Ala. Code Section 40-18- 25(h)(1997) Cum. Supp.
4. The Alabama estate tax and GST tax are “pick-up” taxes, so they do not contain provisions concerning estate tax inclusion and deductions. Alabama has no gift tax.
5. *Coosa River Water, Sewer and Fire Protection Authority v. South Trust Bank*, 611 So.2d 1058 (Ala. 1993); *Merchants National Bank v. Cowley*, 89 So.2d 616 (Ala. 1956). No case law regarding changing charitable beneficiary; cases allow the donor to retain the power to change trust terms if the power is set forth in the trust instrument.
6. *Trabits v. First National Bank*, 323 So.2d 353 (Ala. 1975).
7. Apparently, based on cases allowing trustee to select charitable beneficiary. No cases on point.
8. *Biles v. Martin*, 259 So.2d 258 (Ala. 1972); *Hinson v. Smyer*, 21 So.2d 825 (Ala. 1945).
9. *Biles v. Martin*, 259 So.2d 258 (Ala. 1972); *Hinson v. Smyer*, 21 So.2d 825 (Ala. 1945); *Tumlin v. Troy Bank & Trust Co.*, 61 So.2d 817 (Ala. 1952); *Johns v. Birmingham Trust & Savings Co.*, 88 So.2d 835 (Ala. 1921).
10. *Coosa River Water, Sewer and Fire Protection Authority v. South Trust Bank*, 611 So.2d 1058 (Ala. 1993): No statutory or case law regarding amending charitable trusts; cases recognize the donor’s right to amend a trust if authority is retained in the trust instrument.
11. Ala. Code Section 19-3-301(a)(2) allows a trustee to amend a charitable trust so it will qualify for exemption from the taxes imposed by I.R.C. Section 4941 through 4945.
12. Ala. Code Section 19-3-301.
13. No cases or statute governing funding of charitable remainder trusts.

14. No case or statute governing qualification of trustee of charitable remainder trusts.
15. No case or statute governing the size of the noncharitable interest.
16. *Tumlin v. Troy Bank & Trust Co.*, 61 So.2d 817 (Ala. 1952): The charitable interest must vest within the period of the common law rule against perpetuities—lives in being plus 21 years.

ALASKA

Robert L. Manley
Anchorage, Alaska
April 20, 1998

17. AS 13.36.005
18. Alaska Rules of Court, Administrative Rule 9(b)(2)(iii); One time trust registration fee of \$25.00.
19. No express investigatory authority in statute. However, the Attorney General has common law power to bring actions to protect the public interest. *See, e.g., Public Defender Agency v. Superior Court*, 534 P.2d 947 (Alaska 1975).
20. Trustee shall provide written notice to current beneficiaries and one or more persons who may represent beneficiaries with future interests. AS 13.36.080. Statute drawn from UPC 7-303.
21. No state income tax imposed on individuals or trusts.
22. No state gift tax and a sponge estate tax. A.S. ch 43.31.
23. No state statute or case law on issue. Courts would probably follow Restatement (2d) Trusts §§37 and 331 (1950).
24. Subject to possible Reformation. No state statute or case law on issue. Courts would probably follow Restatement (2d) Trusts §§332 and 333 (1959).
25. D/O
26. Note that under state statute, trust instrument of a charitable remainder trust is considered to contain provisions prohibiting the trustee from self-dealing, retaining excess business holdings, making an investment which would jeopardize the carrying out of the exempt purposes, and making taxable expenditures, but only to the extent that the trust is subject to the provisions of IRC Section 4947. The terms of the trust may include a specific provision or amendment which makes some or all of the above provisions

inapplicable. AS 13.36.300.

27. Alaska has adopted the uniform statutory rule against perpetuities with 1990 amendments subject to the provision that the Rule does not apply to an interest in trust when all or part of the income or principal of the trust may be distributed, in the discretion of a trustee, to a person living when the trust was created. AS ch 34.27. A charitable remainder trust as defined under IRC Section 664 would normally provide that interests of initial beneficiaries are measured by lives and being and thus should not violate the rule against perpetuities. If a charitable remainder trust calls for the remainder to be held at continuing trust for charitable purposes, the courts would probably follow Restatement (2d) of Trusts. §365 (1959) and Restatement (2nd) of Property. (Donative Transfers) §§2.1 and 2.2 (1983) to allow continuation of trust.

ARIZONA

Anthony V. Ehmann
Phoenix, Arizona
February 17, 1997

28. Very little regulation of charities in Arizona.
29. No authority—probably not.
30. Depends on provisions of trust agreement.
31. May be amended as allowed by trust agreement.

ARKANSAS

James Edward Harris
Little Rock, Arkansas
February 10, 1997

32. Arkansas has no gift tax or generation skipping transfer tax.
33. Fund-raising solicitation reports are required of charities, but that law is inapplicable to CRTs.
34. Probably not.
35. Amendments to fix defects or change trustee.

CALIFORNIA

William Finestone
Los Angeles, California
April 9, 1998

36. Franchise Tax Board: Annual tax returns required as follows:

<u>IRS Form</u>	<u>FTB Form</u>
5227	541-B
1041	541
1041-A	541-A

37. Attorney General.
38. Trustee has duty to keep beneficiaries reasonably informed of the trust and its administration. Cal. Prob. Code §16060. Also, duty to account. Cal. Prob. Code §16062. Also, duty to notify beneficiaries in certain circumstances. Cal. Prob. Code Section 16061.
39. (i) No California gift tax; (ii) California estate tax is “pick-up” tax; and (iii) California generation-skipping tax is “pick-up” tax imposed on taxable distributions and taxable terminations that occur at the same time as and as a result of the death of an individual who was a California resident on the date of the original transfer or that occur with respect to California property.
40. *E.g.*, no initial report or annual reports to Attorney General required (Forms CT-1 and CT-2).
41. Only as authorized in trust instrument (*e.g.*, change Trustee or remainder beneficiary).
42. Only as authorized in trust instrument (*e.g.*, change Trustee or remainder beneficiary or to assure trust qualifies under IRC §664).
43. Subject to provisions of trust.
44. Not by reason of California law.
45. Part 2 of Division 11 of Cal. Prob. Code (§§21200 - 21231) (Uniform Statutory Rule Against Perpetuities). (a) 21 years after death of living individual; or (b) 90 years after creation. CRT cannot last longer than this under IRC §664 anyway.

COLORADO

James W. Buchanan, III
Lakewood, Colorado
May 5, 1998

46. §15-16-101, C.R.S.; irrevocable trusts funded with assets having a value of more than \$500, must be registered by the trustee by filing CPC 38 (Colorado Probate Code Form Number 38) in the Colorado court at the trust’s principal place of administration. Registration is not required if trust has no asset other than right to receive property upon the occurrence of some future event.
47. Currently \$90.00 paid at time of filing CPC 38; filing is required within thirty days of trustee’s acceptance of trust.
48. §24-31-101, C.R.S. recognizes and affirms that the Attorney General has statutory and common law powers regarding all trusts established for charitable, educational, religious, or benevolent purposes. The Uniform Supervision of Trustees for Charitable Purposes Act of 1954 has not been adopted in Colorado.

49. §15-16-303, C.R.S.; Although §15-16-303(1) requires the trustee to keep beneficiaries reasonably informed of the trust and its administration, the immediately following §15-16-303(2) requires that a trustee only inform current beneficiaries and, if possible, persons who represent beneficiaries with future interests, of the court in which the trust is registered and of the trustee's current address.
50. §39-22-112, C.R.S.
51. §39-23.5-101, et.seq., C.R.S.; Cited statute refers to estate and generation-skipping transfer taxes; Colorado gift tax repealed for transfers after 1979. §39-25-101, C.R.S.
52. Colorado Nonprofit Corporation Act applies only to charities operating in corporate form.
53. No relevant authority. §15-1-1002(3), C.R.S., authorizes the trustee of any charitable trust defined in IRC §4947(a)(1) or (2) to amend the governing instrument without court approval, but with the consent of all beneficiaries, to conform to IRC §508(e), 664, 2055(e), and 2522(c).
54. §15-1-1002(3). Attorney General may object in which case trustee may petition court to amend governing instrument.
55. §15-11-1101, et. seq., C.R.S. Subject to USRAP restriction on *vesting* (longer of lives in being *plus* 21 years, or actual vesting in 90 years), no limit on *duration* beyond IRC §644(d) period (lives in being or 20 years).

CONNECTICUT

Martin Wolman
Hartford, Connecticut
February 21, 1997

56. The State Attorney General represents the public interest in the protection of any gifts, legacies or devises intended for charitable purposes in accordance with Conn. Gen. Stat. Section 3-125.
57. Generally at the time that the charitable beneficiary's interest becomes vested. Applicable requirements are the same as for noncharitable trusts.
58. Charitable remainder trusts are not subject to the Connecticut income tax and have no return filing requirements.
59. Gift tax treatment mirrors federal gift tax treatment. However, succession tax treatment is based on the Commissioner of Revenue Service's six percent mortality tables in accordance with Conn. Gen. Stat. Section 12-353.

60. Conn. Gen. Stat. Section 45a-515.
61. Inter vivos charitable remainder trusts are irrevocable.
62. Inter vivos charitable remainder trusts generally must be irrevocable for purposes of Federal Tax Code, aside from state law considerations.
63. Amendments are permitted in accordance with reformation statute Conn. Gen. Stat. Section 45a-519, and also if the document allows the trustee to amend document for the sole purpose of qualifying under the Internal Revenue Code Rules.
64. In the case of a reformation action brought in the Superior Court pursuant to Conn. Gen. Stat. Section 45a-519, the Attorney General is given notice pursuant to Conn. Gen. Stat. Section 3-125.
65. The charitable beneficiaries are parties in a reformation action brought in the Superior Court pursuant to Conn. Gen. Stat. Section 45a519.
66. Any applicable restrictions are the same as for a non-charitable trust.
67. Statutory Rule Against Perpetuities may apply in certain circumstances in the case of certain non-vested charitable interests. Conn. Gen. Stat. Section 45a-94.

DELAWARE

Richard G. Bacon
Wilmington, Delaware
April 13, 1998

68. Federal law may require the filing of Form 990 with the Delaware Attorney General.
69. General supervisory authority of Attorney General over charitable trusts.
70. 30 *Del.C.* §§1131 et seq.
71. 30 *Del.C.* §1313. The Delaware inheritance tax law does not mirror federal law. The interest of a charity in a trust is deductible for inheritance tax purposes even if the trust is not one described in §664 of the Internal Revenue Code. Delaware has repealed its gift tax.
72. There is no statute or court decision clearly on the point but it is believed that such laws as are not expressly dependent on the form of the entity would apply to both charities and charitable remainder trusts.
73. There are no statutory prohibitions and general common law principles would permit modification if that right is reserved in the trust instrument.

74. In general, a trust may not be amended or revoked unless authority to do so is reserved in the trust instrument. *See duPont v. duPont*, 164 A. 238 (Del.Ch. 1933), Restatement of Trusts (Second) §§330, 331 (1959).
75. If authority to amend is reserved in the trust instrument. In general, a trust may not be amended or revoked unless authority to do so is reserved in the trust instrument. *See duPont v. duPont*, 164 A. 238 (Del.Ch. 1933), Restatement of Trusts (Second) §§330, 331 (1959).
76. If authority to amend is granted in the trust amendment. There are no statutory prohibitions and general common law principles would permit modification if that right is reserved in the trust instrument.
77. 25 *Del.C.* §503(b).

DISTRICT OF COLUMBIA

Jerry J. McCoy
District of Columbia
February 13, 1997

78. No specific authority.
79. No specific authority; federalized income tax system.
80. No "state" transfer tax except "pick-up" death tax.
81. No authority; not likely.
82. No authority; not likely except for the cy pres doctrine, *see, e.g., Connecticut College v. U.S.* 276 F.2d 491 (D.C. Circa 1960).
83. Absent this authority, an equal division would be required.
84. Reformation to qualify under IRC only; D.C. Code §21-1801(d) authorizes reformation without court involvement.
85. Not specifically. By common law, a beneficiary would get notice and be required to consent to any change in its interest.
86. Common law rule against perpetuities (lives in being plus 21 years) is trumped by 20-year rule of IRC §664.

FLORIDA

Laird A. Lile
Naples, Florida
March 6, 1997

87. When a charity becomes a beneficiary as defined in F.S. §737.303

88. No state income tax. Subject to 2/10 of 1% intangible personal property tax on property owned as of January 1st. *See*, F.S. §199.032.
89. *See*, F.S. §627.481(9) related to annuity agreements.
90. General trust law.
91. Apparently not. General trust law.
92. General trust law. No prohibition under Chapter 737, Florida Statute.
93. Apparently, if trust instrument permits, *see*, F.S. §737.506.
94. *See*, F.S. §737.506.
95. *See*, F.S. §737.506(2). When required, state attorney.
96. Other than standard rule against perpetuities issues.

GEORGIA

Zoe M. Hicks
Atlanta, Georgia
December 31, 1996

97. O.C.G.A. §53-12-116(d). Entities that file form 990 must file a copy of that form with the State Revenue Commissioner.
98. O.C.G.A. §53-12-116(f). Revenue Commissioner may investigate transactions and relationships of the trustees of charitable trusts for the purpose of determining whether trust property is being properly administered. Revenue Commissioner may require trust's agent, fiduciary, beneficiary, institution, association or corporation, or other person to appear and produce books, memoranda, papers, documents of title, evidences of assets, liability, receipts or disbursements.
99. O.C.G.A. §48-7-25(a)(1).
100. O.C.G.A. §48-12-2(b) Estate Tax. No state inheritance or gift taxes. State estate tax is equal to federal credit.
101. Charitable Trusts (including Charitable Remainder Trusts) are governed by Georgia Charitable Trust Act, O.C.G.A. §§53-12-110 to 133. Other provisions of the Georgia Code apply to charities but are not relevant to trusts.
102. O.C.G.A. §53-12-112.
103. The only authority, statutory or otherwise, is O.C.G.A. §53-12-112 which states that the settlor "may retain the power to select... the charitable ben-

eficiaries.” Unlike O.C.G.A. §53-12-150 (“no power to modify... in absence of *an express reservation of power*”), however, O.C.G.A. §53-12-112 does seem to leave the door open to this possibility.

104. See, note 103 for O.C.G.A. §53-12-112 which also provides that the settlor “may direct the trustee” to select the charitable beneficiaries.
105. Grantor may reserve the right to select the charitable purpose of beneficiaries (O.C.G.A. §53-12-112); charitable trusts are subject to Georgia Trust Act, except to the extent GTA is varied by Article 6 “Charitable Trusts” of the Code (O.C.G.A. §53-12-111), and therefore, under O.C.G.A. §53-12-150 (Georgia Trust Act), grantor may amend *if* he or she expressly reserves such power. However, amendments for purpose of enlarging trustee’s duties is subject to trustee’s consent (O.C.G.A. §53-12-151).
106. O.C.G.A. §53-12-126. Trustee may amend governing instrument, without judicial proceedings, to exclude the application of O.C.G.A. §§53-12-124, 53-12-125, or both by executing a written amendment and filing a duplicate original with the State Attorney General. O.C.G.A. §53-12-124 automatically amends split-interest trusts to include provisions to prohibit trustees from engaging in acts of self-dealing, retaining excess business holdings, making investments which would jeopardize the carrying out of exempt purposes (I.R.C. 4944), or making I.R.C. 4945(c) taxable expenditures to the extent required by I.R.C. 4947(a)(2). O.C.G.A. §53-12-125 automatically amends split-interest trusts to include a provision requiring trustees to distribute, for each taxable year, amounts at least sufficient to avoid liability under I.R.C. 4942.
107. O.C.G.A. §53-12-126.
108. O.C.G.A. §53-12-114; §44-6-200 et seq. split-interest trusts are subject to the uniform statutory rule against perpetuities codified at O.C.G.A. §44-6-200 et seq.

HAWAII

Elliott H. Loden
Honolulu, Hawaii
March 31, 1997

109. Change the trustee.
110. Probate court.
111. Rule against perpetuities.

IDAHO

Edward D. Ahrens
Boise, Idaho
June 17, 1997

112. Idaho Code Sections 15-7-101 and 15-3-1009. Idaho Code Section 15-7-101 requires that the trustee of a trust having its principal place of administration in Idaho shall register the trust in the Court of Idaho at the principal place of administration. However, §15-7-104 provides that failure to register results in the trustee being subject to the personal jurisdiction of any court in which the trust could have been registered—a result which would occur in any event had the trustee registered. Thus as a practical matter, trust registration may or may not occur. If a grantor or a beneficiary make a written demand of the trustee to register, then failure to do so results in a sanction of potential removal and denial of compensation or to surcharge as the court directs. In addition, §15-7-104 allows all the beneficiaries to direct the trustee not to register.

Idaho Code Section 15-7-1009 requires that whenever any estate involves or may involve a charitable trust, the court shall at the time of distribution of said estate forward to the Attorney General of Idaho a certified copy of said decree of distribution of such estate.

In addition, §15-2-913 provides that a personal representative may require a trustee to register the trust before distribution to the trustee.

113. Idaho Code Section 67-1401(4).
114. Comments to Idaho Code Section 15-7-303 state: in the case of a charitable trust, notice need be given only to the Attorney General or other state officers supervising charitable trusts, and in the event that the charitable trust has, as its primary beneficiary, a charitable corporation or institution, notice should be given to that charitable corporation or institution. If a charitable organization is irrevocably designated, query whether a charitable organization is the CRT’s “primary beneficiary”.
115. Idaho Code Section 63-3002 states: it is the intent of the legislature by the adoption of this Act, insofar as possible to make the provisions of the Idaho Act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the Internal Revenue Service shall be the identical sum reported to this state, *subject only to modifications contained in the Idaho law*; to achieve this result by the application of various provisions of the Federal Internal Revenue Code relating to the definition of

income, exceptions therefrom, deductions (personal and otherwise), accounting methods, taxation of trusts, estates, partnerships, and corporations, basis and other pertinent provisions (emphasis added).

Because there is no other mention of CRTs in the Idaho Code, one can presume that CRTs are tax exempt in Idaho because they are tax exempt for federal purposes. Note that Idaho Code Section 63-3024 states that: a tax is hereby imposed for each taxable year commencing on and after January 1, 1987, upon every resident individual, trust or estate which shall be measured by his or its taxable income, and upon that part of the taxable income of any non-resident individual, trust or estate derived from sources within the State of Idaho”.

One can presume that in the event a CRT has unrelated business tax income (“UBTI”) and is therefore not tax exempt, and an Idaho income tax return needs to be filed. Therefore, there may be some value in filing an Idaho income tax return to report no UBTI each year.

116. “Pick-up” tax state.

117. It is generally presumed that a CRT donor may reserve the right to change charitable beneficiaries from time to time. However, a line of Idaho cases invalidated charitable bequests because the bequest was too vague. This has caused some discussion among practitioners as to whether a specific organization needs to be named initially in the document and whether a limit on the power to change the beneficiary is necessary. To avoid the invalidation because of vagueness, the grantor should name specific charities upon creating the CRT and when substituting remainder charities from time to time. The following Idaho cases invalidated charitable bequests:

Hedin v. Westdala Lutheran Church, 59 Idaho 241, 81 P.2d 741 (1938)

In re Eggan’s Estate, 86 Idaho 328, P.2d 563 (1963)

Yribar v. Fitzpatrick, 91 Idaho 105, 416 P.2d 164 (1966)

Dolan v. Johnson, 95 Idaho 385, 509 P.2d 1306 (1973)

118. There is no authority prohibiting or allowing a change of the charitable beneficiary by the trustee, but *see*, note 117.

119. Although the above-cited cases relate only to bequests, they may be ruled to apply to a vague charitable gift and therefore the more prudent route is to name a specific charitable beneficiary.

120. There is no authority prohibiting or allowing the trustee to designate the charitable beneficiary from several charitable beneficiaries listed in the governing instrument.

121. The trustee has limited power of amendment pursuant to Rev. Procs. 90-30, 90-31, 90-32 only.

122. Idaho Code Section 15-7-201. §15- 7-201(b) provides that neither registration of a trust nor a proceeding under this section results in continuing supervisory proceedings. The management and distribution of a trust estate, submission of accounts and reports to beneficiaries, payment of trustee’s fees and other obligations of the trust, acceptance and change of trusteeship, and other aspects of the administration of a trust shall proceed expeditiously consistent with the terms of the trust, free of judicial intervention and without order, approval or other action of any court, subject to the jurisdiction of the court as invoked by interested parties or as otherwise exercised as provided by law.

ILLINOIS

Charles D. Fox, IV
Chicago, Illinois
April 14, 1998

123. 760 ILCS §§55/5 and 55/6. Registration required only if the greatest value of the trust during the year, measured at fair market value, or the total amount disbursed, whichever is greater, exceeds \$4,000.00. Ill. Admin. Code tit. 14, §480.20.

124. 760 ILCS §55/7; Ill. Admin. Code tit. 14, §480.50. Not required when the trustee is a bank or trust company. All trustees, including banks and trust companies, must notify the Attorney General of the termination of a charitable trust.

125. 760 ILCS §55/9. The Attorney General may investigate transactions and relationships of trustees subject to the Charitable Trust Act, 760 ILCS §§55/1 to 55/19, for the purpose of determining whether the property held for charitable purposes is properly administered.

126. 35 ILCS §5/203.

127. 35 ILCS §405/3.

128. 225 ILCS §460/1(1)(a), (g).

129. There are no provisions in the statutes, regulations, or case law that forbid this.

130. There are no provisions in the statutes, regulations, or case law that allow this.

131. There are no provisions in the statutes, regulations, or case law that allow this in the absence of specific language to that effect in the trust instrument.
132. 760 ILCS §60/1. The trustee of any trust that is treated as a private foundation of split-interest trust may amend the trust to bring it into conformity with, *inter alia*, a charitable remainder trust with the consent of any named charitable beneficiaries and all the non-charitable beneficiaries whose interests have not expired. There are no provisions in the statutes, regulations, or case law that permit other types of amendments by the trustee in the absence of specific language to that effect in the trust instrument.
133. Except amendments made by the trustee pursuant to 760 ILCS §60/1 (*see*, note 132).

INDIANA

Kristin G. Fruehwald
Indianapolis, Indiana
January 28, 1997

134. Notice is required only if the trust is docketed with the court for any reason.
135. Indiana has no gift tax. Life estates and remainders are calculated on a 10% table.
136. A court can amend a trust after notice and hearing. Therefore, technical and administrative amendments are possible. IC 30-4-3-31.
137. Those amendments permitted by the document can be made without court order. Any other amendment can be made only upon court order after notice and hearing.
138. IC 30-4-6-6(a). The Attorney General must be notified of the docketing of any charitable trust and can object to any amendment.
139. IC 30-4-3-31. The beneficiary must be notified of the docketing of the charitable trust and can object to any amendment. Notice may not be required if the charitable beneficiary is not vested.
140. Federal tax law restrictions are important. There are some restrictions on what the trust can invest in after the trust is funded (e.g., life insurance, annuity, excess business holdings). (IC 30-4-5-21).
141. Rule against perpetuities restrictions but these almost always are more generous than the twenty year provision in the Code.

IOWA

J. Edward Power
Des Moines, Iowa
February 20, 1997

142. Iowa Code §633.303 (1997). The Clerk of Court is required to mail a copy of a will creating a charitable trust or a copy of any other filed instrument that creates a charitable trust to the Iowa Attorney General; otherwise there is no registration.
143. Iowa Code §633.303 (1997). The Iowa Attorney General may investigate for the purpose of determining and ascertaining whether a trust is being administered in accordance with law and with the terms and purposes of the trust and may make application to the court for such orders as may be reasonable and proper to carry out the purposes of the trust.
144. If the trust is established pursuant to will or is otherwise is being administered under court jurisdiction then notice to the interested parties, including charitable beneficiaries, would be required for any order to be final. Iowa Code §633.33 et seq., 700 et seq. (1997).
145. Iowa Code §422.3, 422.4 (16) (1997).
146. Iowa has no gift tax.
147. Iowa Code Chapter 634 (1997) applies to private foundations and charitable trusts, including charitable remainder trusts. That chapter provides that the prohibited transaction and required distribution language required by IRC §4941 et seq. is deemed to be included in the trust instrument.
148. No applicable authority; Federal rules apply.
149. No applicable authority; Federal rules apply. Any amendments which are authorized by the trust instrument would be permitted under state law. Iowa law with respect to tax matters, however, would mirror Federal law. If an amendment is authorized which would prevent the trust from qualifying as a split-interest trust for federal purposes, however, it would similarly prevent qualification for state purposes.
150. Iowa tax law follows Federal tax law in allowing split-interest trust treatment.
151. No applicable authority; Federal rules apply to the extent applicable.

KANSAS

Eric J. Larson
Wichita, Kansas
January 15, 1997

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152. Attorney General may investigate and bring action regarding matters of public interest. *See, Trousman v. DeBoissiere*, 66 KAN 9, (1903).
153. KSA 59-1605 which requires notice by trustee of a trust in favor of persons "subject to conservatorship."
154. KSA 79-32134 indicates Kansas taxable income of a resident, estate or trust means "it's Federal taxable income" with adjustments prescribed by Kansas statutes KSA 79-32117 and KSA 79-32120. As a practical matter, the treatment generally does in fact "mirror" Federal treatment.
155. Amounts passing to the charity (including the value of charitable remainders), do qualify for deduction.
156. Charitable corporation laws do not apply to trusts. KSA 79-4601 to 4606, prohibiting acts which would give rise to excise taxes under IRC §§ 4941-4945, apply to charitable remainder trusts as well as other charitable trusts and corporate private foundations.
157. No restrictions under state law.
158. KSA 58-2417 sets forth the presumption that every trust is irrevocable unless the instrument contains an express authority to revoke.
159. If expressly stated, KSA 58-2417. No state law restriction.
160. KSA 79-4605. Cannot make any investments which will jeopardize carrying out the exempt purpose of the trust.
161. KSA 59-3404(5). Note, however, non-charitable interests must terminate within the period specified by KSA 593401 et seq., (uniform statutory rule against perpetuities).

KENTUCKY

James L. Coorssen
Louisville, Kentucky
March 17, 1997

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162. No gift tax in Kentucky.
163. If provided for by instrument.

LOUISIANA

David F. Edwards
New Orleans, Louisiana
April 22, 1998

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164. The Attorney General's office has authority to investigate charitable solicitations generally, but this is, for all practical purposes, inapplicable to charitable remainder trusts. *See*, La.R.S. 51:1901-05.
165. *See*, La.R.S. 47:300.4. A newly enacted statute could be read to require taxation within the trust of income distributed to a non-resident of Louisiana although it is most unlikely that this was the intended result. *See*, La.R.S. 47:300.6.B(1)(c).
166. The deduction, or exemption, for charitable gifts is limited to Louisiana entities or those located in states that grant a similar exemption to Louisiana charities. *See*, La.R.S. 47:2402(4)(6).
167. This right is not explicit in Louisiana law if the trust is irrevocable, but the reporter thinks it is permissible.
168. La.R.S. 9:2271.
169. There is no express authority in Louisiana, but amendments by the grantor should be permissible.
170. The only amendments expressly authorized by Louisiana law have to do with U. S. tax qualification (*See*, La.R.S. 9:2283.C.), but if permitted by the governing instrument the trustee should be able to amend administrative provisions of the trust.
171. In addition to the usually permitted trustees (i.e., individuals and bank and trust companies), a charitable corporation or trust may serve if it is the remainder man. *See*, La.R.S. 9:1783.
172. *See*, La.R.S. 9:183A. Compare id. §1831.

MAINE

Philip C. Hunt
Portland, Maine
January 3, 1997

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173. Trusts may be registered with the Probate Court at the principal place of administration. 18-A MRSA §7101.
174. The Attorney General is authorized to enforce application of funds given or appropriated to public charities and prevent breaches of trust. 5 MRSA §194.
175. 18-A MRSA §7-303. Within 30 days of acceptance of trust, the trustee shall inform in writing the current beneficiaries and, if possible, one or more persons who may represent future beneficiaries of the trustee's name and address, the court, if any, in which the trust may be registered.

176. No state gift tax. Estate tax is based on federal state death tax credit.
177. No authority, either statutory or case law, expressly addresses this point. Since state law recognizes revocable and amendable trusts, such changes should be allowed.
178. No authority, either statutory or case law, expressly addresses this point. Assumption is that power of amendment or revocation must be reserved.
179. No authority, either statutory or case law, expressly addresses this point. Assumption is that trustee does not have this authority unless conferred by the instrument.
180. No authority, either statutory or case law, expressly addresses this point. Assumption is that trustee can comply with the governing instrument.
181. No authority, statutory or case law, on this point. Assumption is that trustee could do so if authorized by the trust.
182. No authority, statutory or case law, on this point. Trusts are governally amendable if power to amend or revoke is described.
183. No authority, statutory or case law, on this point.
184. Other than prudent investment rule, there is no authority on this point.
189. Charitable beneficiary need not be advised until its interest vests in possession, but contingent remainders cannot be extinguished. ET §11-101.
190. Maryland state law does not contain a provision similar to I.R.C. 664 (c). However, the Maryland Attorney General's office has taken the position that charitable remainder trusts are exempt from Maryland income tax.
191. The exemption from Maryland inheritance tax is not limited to trusts that comply with federal tax requirements for charitable remainder trusts; if simple income interest in a non-charitable beneficiary would permit the charitable remainder to be tax exempt. On the other hand, the Maryland estate tax can increase to the extent that the charitable remainder does not qualify for the federal estate tax exemption; Maryland's estate tax is a state death tax credit "soak-up" tax determined entirely with reference to federal tax determinations. T.G. §7-304.
192. Nothing precludes the governing trust instrument from including language which retains "donor" authority.
193. Irrevocable trust instruments cannot be amended unless, and to the extent, the trust instrument authorizes amendments.
194. Nothing precludes the governing trust instrument from including language which allows the trustee to change the charitable beneficiary.

MARYLAND

Alexander I. Lewis, III
Baltimore, Maryland
June 25, 1997

185. No provision for state registration.
186. No provision for state fees.
187. No provision for annual financial reporting to the state.
188. Courts of equity have full jurisdiction to enforce trusts for charitable purposes upon suit of the state by the Attorney General or suit by any person having an interest in enforcement of the trust. ET §14-301. ("ET" stands for the estates and trusts article of the Annotated Code of Maryland (1991 Repl. Vol.)) (References to "TG" hereinafter relate to the Tax General Article of the Annotated Code of Maryland). See, also ET §14-302 et seq., Md. Uniform Charitable Trust Admin. Act, covering statutory *cy pres*. *O'Donnell v. Swidegna*, 336 Md. 18, 646 A.2d 398 (1994); *Baltimore Arts Festival, Inc. v. Mayor and City Counsel of Baltimore*, 326 Md. 653, 607 A.2d 1 (1992).
195. No provision of state law appears to preclude establishing a trust for broad charitable purposes, with the trustee or some other person designated to select the particular beneficiaries to carry out the specified charitable purposes.
196. Nothing in state law appears to prohibit grantor retained powers to amend so long as the amendments do not adversely effect the charitable character of the trust and its continued eligibility for the tax treatment intended.
197. To assure compliance with changes in the law and regulations.
198. Assuming the charitable beneficiaries' rights have not vested.
199. ET §11-102(d). The common law rule against perpetuities does not apply to a trust for charitable purposes.

200. M.G.L. chs. 12 and 68. The Massachusetts Attorney General has authority to protect the interests of charities and, upon notification of the vesting of the charitable interest, may investigate the history of the trust.
201. When charitable remainder interest “vests” at end of income/unitrust/annuity interests. The Massachusetts Attorney General appears to rely on the “good faith” of the trustee to notify the charities and the Attorney General of the termination of the trust and the distribution to charity.
202. M.G.L. ch. 62 §11a. A Massachusetts trustee who distributes income subject to Massachusetts income tax to a beneficiary who is an inhabitant of Massachusetts must withhold Massachusetts tax at applicable rates; the amount withheld is allowed as a credit to the beneficiary against the Massachusetts income tax payable for such year.
203. Massachusetts is now a “sponge tax” state relying on the federal state death tax credit under IRC §2011 for transfer tax purposes and has no separate estate tax after December 31, 1996.
204. Certain provisions (e.g., income tax sections of M.G.L. Ch. 62) applies specifically to trusts. Others apply through the interpretation of the Attorney General that such trusts falls within the statutory provisions.
205. There are no state law restrictions on this issue.
206. If this is an irrevocable trust governed by Massachusetts law, the donor should not be able to change the charitable beneficiary without court approval and notice to the removed beneficiary (in effect, the donor would be seeking to modify the trust for some legally sound reason).
207. Not without court approval.
208. There are no state law restrictions; for federal tax purposes, however, a power to amend the trust should not be capable of being exercised so as to enlarge the non-charitable interest(s).
209. There are no state law restrictions.
210. There is no mechanism for recording or review of charitable remainder trusts by any state agency.
211. There is no notification or approval requirement.

212. The Massachusetts rule against perpetuities (M.G.L. Ch. 184A) does not limit the duration of charitable trusts; the duration of non-charitable interests is limited to the longer of 21 years after the death of all lives in being or 90 years after the date the interests were created. Note that federal tax law imposes a shorter limit on the duration of non-charitable interests in charitable remainder trusts stand as state law.

MICHIGAN

John A. Scott
Traverse City, Michigan
March 26, 1997

213. Uniform Supervision of Trustee for Charitable Purposes Act (USTCPA) Sec. 8 (MCL 14.258). Attorney General’s office gets involved on complaint basis.
214. MCL 700.814 (Revised Probate Code) requires trustee to keep presently vested beneficiaries (including remainder person) reasonably informed of the trust and its administration.
215. Michigan has a “pick-up” estate tax and no gift tax.
216. USTCPA sec. 3(c) (MCL 14.253(c)) provides that unless governing instrument requires otherwise a CRT shall not be deemed a charitable trust for purposes of registration, accounting and notice.
217. No known statutory or common law limitation.
218. Must do so by petition and order by Probate Court (MCL 700.22(f)). There is concurrent jurisdiction Circuit Court but all such cases will be transferred to Probate Court.
219. As allowed by Probate Court order (assuming that this is an irrevocable trust). MCL 700.21(b) grants Probate Court authority for “modification” (and) reformation of trusts.
220. Attorney General’s office is entitled to notice of proceedings, while they don’t have approval power they could theoretically object. (USTCPA Sec. 4(b) (MCL 14.254)(b)) Attorney General is necessary party to Court proceedings to modify or depart from the objects or purposes of a charitable trust.
221. Charitable beneficiary is an interested party under MCL 700.7 to such a proceeding. Beneficiary does not have approval power but may object.
222. If a corporation, it must be a bank with fiduciary powers MCL 487.351 (Section 51 of Michigan Banking Code). See, “Non-Profit Charitable Corporations Serving as Trustee” Michigan Probate and Estate Planning Journal, Volume 14, Spring 1995, No. 3,

Page 13. There is a long standing controversy on this point.

223. MCL 554.351 provides that rule against perpetuities does not apply to charitable trusts.

MINNESOTA

Gene C. Olson
Minneapolis, Minnesota
March 24, 1997

224. Minn. Stat. §501B.36(7). Split-interest trusts are specifically excluded from the registration and reporting requirements of the supervision of Charitable Trusts and Trustees Act. §§501B.33 to 501B.45.
225. Minn. Stat §501B.40. The Attorney General may conduct investigations that are reasonably necessary to secure compliance with law and to assure that property held for charitable purposes is properly administered.
226. Inter vivos charitable remainder trusts — notice is not required unless the trustee or a person interested in the trust requests court supervision of the trust. Minn. Stat. §501B.16 and .22.

Charitable remainder trusts created by will — notice is required at the time informal proceedings are initiated to probate the will.* Minn. Stat. §§524.1-401; 524.3-306. Notice is not required at the time formal proceedings are initiated to probate the will. Minn. Stat. §524.3-403.

*Note: When a charitable beneficiary is entitled to notice of probate proceedings, such notice shall state that the beneficiary may request that notice of the probate proceedings be given to the Attorney General. Minn. Stat. §524.1-404.

Whenever a will provides a devise for a charitable purpose, the personal representative must provide notice to the Attorney General. Minn. Stat. §525.831.

227. Minnesota has no gift tax. The Minnesota estate tax is equal to the federal estate tax credit for state death taxes.
228. Unless the charitable remainder trust falls within the terms of an exception to such laws.
229. The trustee may petition the district court for instruction where there is uncertainty regarding the charitable beneficiaries designated in the trust instrument or where a change in circumstances may render impractical, inexpedient or impossible a literal compliance with the trust terms. Minn. Stat. §501B.31.
230. If power to amend is reserved by terms of trust instrument.

231. If power to amend is granted by terms of trust instrument. See, note 229.

232. Minn. Stat. §§501A.04; 501B.31, Subd. 1.

MISSISSIPPI

Louis H. Watson
Jackson, Mississippi
February 28, 1997

233. In the absence of client request to the contrary, counsel for donor would normally give notice to the charitable beneficiary.
234. The Mississippi Tax Code does not specifically prescribe income tax treatment of charitable remainder trusts. However, an informal opinion from the Chief of the Income Tax Division confirms mirror treatment as in IRC Section 4947.
235. Certain exempt organizations which solicit or intend to solicit contributions must file registration statements with, and pay filing fees to, the Secretary of State. Such organizations must also file annual reports which include financial statements. MCA Section 79-11-501, et seq. These requirements do NOT apply to charitable remainder trusts.
236. MCA Section 91-9-401, et seq. defines prohibited acts, e.g., "self-dealings, excess business holdings," etc., in the administration of private foundation trusts, charitable trusts and split-interest trusts. This Article 9 also empowers trustees of such trusts, without judicial proceedings, to amend the governing instrument of such trusts to exclude the possible application of the prohibited acts statutory section and to take advantage of the statutory section mandating distribution of amounts to avoid tax liability.

MISSOURI

David L. West
Kansas City, Missouri
April 30, 1998

237. Mo.Rev.Stat. §§456.400 - 456.440 (1997) [Applies to all trusts, including charitable trusts; not unique to charitable remainder trusts.]
238. Mo.Const.Art. 4, §12; *Voelker v. Saint Louis Mercantile Library Association*, 359 S.W. 2d 689 (Mo. 1962); Mo.Rev.Stat. §456.230.4 (1997). Attorney General has general powers of enforcement over all charitable trusts [not unique as to charitable remainder trusts].
239. Mo.Rev.Stat. §143.41 provides for individual income tax deductions that mirror federal deductions (would include income tax charitable deduction). Mo.Rev.Stat. §143.321 provides that any trust exempt from federal income tax is also exempt from Missouri income tax.

240. Missouri has a “pick-up” tax equal to the State Death Tax Credit. Mo.Rev.Stat.
241. We are aware of no law in Missouri specifically dealing with charitable remainder trusts (other than Mo.Rev.Stat. §456.230 which covers certain limitations regarding split-interest trusts for federal tax purposes); and there is no implication that charitable remainder trusts would not be included in the provisions dealing with charitable trusts. However, it cannot be said that all state laws relating to charities will also apply to charitable remainder trusts.
242. No Missouri law specific to charitable remainder trusts. Missouri law regarding trusts, generally, permits creator of trust to exercise any rights specifically reserved in trust agreement.
243. No Missouri law specific to charitable remainder trusts. Assumption is that donor is only allowed to exercise powers expressly reserved in the trust agreement.
244. No Missouri law specific to charitable remainder trusts. Assumption is that trustee only has powers given by the trust agreement and/or state law.
245. No Missouri law specific to charitable remainder trusts. *Altman v. McCutchen*, 210 S.W. 2d 63 (Mo. 1948) validates general charitable trust where trustee has discretion to select charitable beneficiaries.
246. No Missouri law specific to charitable remainder trusts. *Altman v. McCutchen*, 210 S.W. 2d 63 (Mo. 1948) validates general charitable trust where trust agreement provides general guidance and the trustee has discretion to select the specific charitable beneficiaries.
247. No Missouri law specific to charitable remainder trusts. General trust law applies to give trustee extent of authority given in trust agreement. *First National Bank of Kansas City v. Danforth*, 523 S.W. 2d 808 (Mo. 1975); *cert. denied* 421 U.S. 992, 95 S. Ct. 1999, 44 L. Ed. 2d. (Mo. 1975).
248. No Missouri law addresses amendments of charitable remainder trusts. In general grantor cannot amend trust without specific reservation of that right, *Pilgrim Evangelical Lutheran Church of the Unaltered v. Lutheran Church—MO Synod*, 661 S.W. 2d 833 (Mo. App. 1983).
249. No Missouri law specific to charitable remainder trusts. Trustee may exercise any powers expressly granted to the trustee under the trust agreement. There is no statutory authority for a trustee to amend a trust absent authority in the trust agreement.
250. No provision of Missouri law specifically limits the duration of a charitable remainder trust. However,

noncharitable interest would be governed by general rule against perpetuities (lives in being plus 21 years). *Saint Louis Union Trust Company v. Kelley*, 199 S.W. 2d 344, 355 Mo. 924 (1947). Continuing charitable interest is governed by Missouri law that charitable trusts are exempt from the rule against perpetuities. *Epperly v. Mercantile Trust and Savings Bank*, 415 S.W. 2d 819, *modified* 457 S.W. 2d 1 (Mo. 1967); *Mercantile Trust Company, N.A. v. Shriners Hospital for Crippled Children*, 551 S.W. 2d 864 (App. 1977).

MONTANA

W. Bjarne Johnson
Great Falls, Montana
March 10, 1997

251. The Attorney General is given powers to supervise public benefit corporations, MCA 35-2-131 and the Official Comments, and may petition a court to enforce a beneficiary’s rights under charitable trusts, MCA 72-35-315, but any supervision is passive in nature.
252. At least 14 days before any court hearing on a petition concerning the internal affairs of the trust. MCA 72-35-306(2). The notice provision is a general requirement pertaining to all trusts, but general trust provisions apply to charitable trusts as well. MCA 72-33-105. There is no specific notice requirement relating solely to charitable remainder trusts.
253. MCA 15-30-101(7) and 15-30-135.
254. MCA 72-16-312.
255. Foundations formed under the Montana Non-Profit Foundation Act, MCA 35-2, Parts 1 through 14, are subject to much more elaborate reporting and organizational requirements.
256. There is no statutory restriction on the right to change charitable beneficiaries by the donor.
257. There is no specific statute permitting the change of charitable beneficiaries if the otherwise irrevocable charitable remainder trust does not provide for the change.
258. There is no statutory restriction on the right to change charitable beneficiaries by the trustee.
259. There is no statutory restriction on the right of a trustee to select charitable beneficiaries.
260. There is no provision allowing a grantor to change a charitable remainder trust unilaterally. Charitable trusts in general, though, are subject to the Montana Trust Code. MCA 72-33-105. An irrevocable trust

may be terminated or modified if the grantor and all beneficiaries agree. MCA 72-33-407. This is done in the context of a court proceeding, MCA 72-33-413, after notice to all beneficiaries. MCA 72-35-306. With regard to charitable trusts, the Attorney General is defined as a "beneficiary" MCA 72-33-108(1), MCA 72-1-103(3)(b), and also is specifically required to be served notice under MCA 72-35-306(3).

261. A trustee (or "the organization") is permitted specifically to begin court proceedings to amend or conform a trust to the requirements of the Tax Reform Act of 1969, MCA 72-34-206, or to comply with final Internal Revenue Service rulings and regulations for charitable remainder trusts. MCA 72-35-301(2)(a). Otherwise, a trustee may also petition the court for modification in the same manner as set forth in number 269 above for the Grantor.
262. The Attorney General is given general oversight over all charitable organizations. MCA 32-2-131. Approval cannot be exercised unilaterally by the Attorney General. Amendments to a charitable trust generally come in the context of a court proceeding, MCA 72-35-301, MCA 72-33-413, unless all beneficiaries and the Grantor agree, MCA 72-33-407. In any event, the Attorney General is defined as a beneficiary, MCA 72-1-103(3)(b) and 72-33-108(1), and as such must participate in the decision and must be given notice of any court proceeding for amendment. MCA 72-35-306(3).
263. As with the Attorney General in note number 271, all beneficiaries must either agree or be given notice of any court proceeding.
264. The only Montana reference to property held by a charitable remainder trust is Mont. Code Ann. 72-30-102(6) which specifically excludes charitable remainder trusts from the provisions of the Uniform Management of Institutional Funds Act.
265. Once vested with a charity, there is no perpetuities limitation. Montana Constitution, Article VIII, Section 6. There is no state law limitation relating specifically to charitable remainder trusts. There remains only the uniform statutory rule against perpetuities, i.e., lives in being plus 21 years or 90 years. MCA 72-2-1002.

NEBRASKA

Gary B. Schneider
Lincoln, Nebraska
January 17, 1997

266. The Attorney General has the authority under common law to institute actions to enforce charitable trusts and to request removal of trustees.
267. No requirement found. The charitable beneficiary would be made a party to any action instituted by the

Attorney General to enforce a charitable trust or remove a trustee.

268. §77-2714.
269. §77-2104 re: estate tax; no state gift tax.
270. *See, generally* §§30-3215, et seq., which apply to private foundations *and* to split-interest trusts.
271. No restriction under state law found for grantor to reserve such power.
272. Depends on the interpretation of terms of trust whether reservation of that authority may be implied.
273. §30-3216 allows trustee to "reduce or limit" charitable organizations if necessary to comply with tax laws. The trustee also may ask court for instructions, interpretation, or amendment of terms of trust if intent of trust is frustrated or cannot be accomplished.
274. *See, St. James Orphan Asylum v. Shelby*, 60 Neb. 796, 84 N.W. 273 (1900).
275. *See, In Re Creighton's Estate* 84 N.W. 273, 60 Neb. 796 (1900) and *In Re Nilson's Estate* 116 N.W. 971, 81 Neb. 809 (1908). *See also*, §30- 239 et seq.
276. Depends on if the authority is specifically reserved to the Grantor in the trust instrument.
277. *See*, §30-3216. Trustee may make amendments to trust instrument to extent necessary to bring into compliance with tax laws.
278. §30-3216 requires trustee to obtain consent of charitable organizations before making amendments to comply with tax laws.

NEVADA

Layne T. Rushforth
Las Vegas, Nevada
April 10, 1998

279. Attorney General's office investigates allegations of fraud.
280. With respect to testamentary charitable trusts, a charitable beneficiary is entitled to a summary of the trustee's annual account and notice of a hearing related to a judicial settlement of a trustee's account. NRS 165.070, 165.080, 165.230.
281. No state income tax.
282. No state transfer tax. Nevada's only transfer tax is the state credit ("pick-up") tax.
283. Depends on trust revocability.

284. NRS 163.006.
285. NRS 163.520 through 163.550. No amendment may permit self-dealing.
286. Trustee may only amend trust with Court approval under 163.540 and/or 163.550, attorney general must be notified, and the trustor(s), if living, must consent.
287. NRS 163.540.
288. The beneficiary would have standing to raise objections to a proposed amendment under NRS 163.540.
289. NRS 163.520 prohibits the trustee from retaining assets that would trigger tax under IRC §4943(a) or under 4944(a).
290. Rule against perpetuities applies to charitable remainder trusts but not to charitable trusts with charitable beneficiaries only. NRS 111.1037(5).

NEW HAMPSHIRE

Nancy V. Sisemoore
Manchester, New Hampshire
April 15, 1998

291. RSA 7:28. Director of Charitable Trusts should be notified when the Trust is established, but nothing further is required until the income interests terminate.
292. RSA 7:28.
293. Have authority to investigate once life income interest terminates.
294. Notice to charitable beneficiary is only required when the life income interest terminates.
295. RSA 77 generally and 77:8 and 77:10. Charitable remainder trusts are subject to the New Hampshire Interest and Dividend Tax unless the income beneficiary is not a New Hampshire resident.
296. New Hampshire has a "pick-up tax" and a legacy and succession tax which would not apply to the charitable interest but which may apply to the income interest if the life-income beneficiary is a non-exempt heir.
297. Once the life income interest terminates, there is no ruling or statute indicating treatment prior to that time.
298. There is no specific authority prohibiting such a power so it is presumed that it is allowable.
299. No law on the point.

300. Presumed that the general principle that the provisions of the document control would be followed.
301. Would follow federal law in this regard. Would need to be authorized by the governing document.
302. No approval is necessary but the Director of Charitable Trusts should be notified.
303. Only if instrument required approval.
304. Only to the extent of federal limitations.

NEW JERSEY

Gerald C. Neary
and Anita Siegel
Warren, New Jersey
January 8, 1997

305. No specific authority, but Attorney General exercises "supervisory" authority over charities.
306. Not at time of creation of trust. Charity must be notified at expiration of term.
307. Only trusts which are solely charitable are exempt. However, there are no reported cases, or even "reported" audits, of charitable remainder trusts, and it seems likely that few file returns.
308. Only those which will conform the trusts to the requirements of Section 664(d).
309. Probably a good idea to "notice" the Attorney General, if you decide to go to court in the first place.
310. Probably limited to New Jersey's (common law) rule against perpetuities (with respect to the term of the non-charitable interest).

NEW MEXICO

Robert P. Worcester
Santa Fe, New Mexico
May 23, 1997

311. §7-2-1 et seq. (NMSA 1978).
312. Charitable Solicitation Act which is primary act directed at charities does not apply to charitable remainder trusts.
313. §46-2-14 (NMSA 1978). If power of amendment were reserved.
314. No specific statutory or case law addressing this issue; presumably could be accomplished under appropriate circumstances with approval of District Court under §45-7-201 (NMSA 1978).
315. Although there is no specific statutory law or case law on point, presumably this would be permitted.

316. Although there is no specific statutory authority or case law on point, under some circumstances this would presumably be permitted, e.g., change of charitable beneficiary of trust permitted.
317. Possibly with approval of District Court pursuant to §45-7-201 under compelling circumstances.
318. §45-2-901 (NMSA 1978). Statutory rule against perpetuities.

NEW YORK

John J. Barnosky
Uniondale, New York
March 10, 1997

319. EPTL §8-1.4(b), 13 NYCCR §100.1(c). Registration required only after non-charitable interests terminate.
320. 13 NYCCR §100.1(c).
321. EPTL 8-1.8(d).
322. If a trust is created by a will, notice must be given to all named beneficiaries (SCPA 1409). In any court proceeding involving a trust which at any time may pass to a charity, notice must be served on the Attorney General on behalf of such charitable beneficiaries. (EPTL 8-1.4)(e)(1).
323. Tax Law §601(h).
324. Tax Law §955.
325. EPTL 8-1.8. Charitable corporations are governed by not-for-profit corporation law.
326. Matter of Dodge, 25 NY 2d 273 (1969). Rule is same as that applied to non-charitable trusts.
327. *McKnight v. Bank of New York and Trust Co.*, 254 N.Y. 417 (1930); *Matter of Woodward*, 284 A.D. 459 (4th Dept. 1954). Rule is same as that applied to non-charitable trusts; answer is “no”, unless the donor obtains the written consent of the beneficiary. EPTL §7-1.9(a).
328. *In Re Cunningham’s Will*, 206 N.Y. 101 (1912), EPTL 8-1.1.
329. EPTL 8-1.1. *In Re Kaufman’s Estate*, 30 Misc.2d 860.
330. See note 334 and EPTL 8-1.8. As permitted by IRS Regs. 1.664-1 et seq.
331. EPTL §8-1.8.
332. EPTL §8-1.4.

NORTH CAROLINA

Curtis A. Twiddy
Raleigh, North Carolina
March 5, 1997

333. N.C.G.S. 105-134.5 defines “taxable income” as federal taxable income with certain adjustments, none of which pertain to the charitable contribution deduction.
334. No statutory or case law authority.
335. Amendments allowed solely for the purpose of complying with federal law requirements for charitable remainder trusts.

NORTH DAKOTA

Wesley A. Argue
Hamilton, North Dakota
December 19, 1996

336. NDCC 30.1-32-01. The trust is to be registered in the District Court serving the county encompassing the principle place of administration. Registration procedures are set forth in NDCC 30.1-32-02.
337. NDCC 11-17-04. There is a nominal trust registration fee of \$5.00 which is payable to the clerk of the District Court where the trust is registered.
338. NDCC 30.1-34-03. Financial reports must be provided if requested by the beneficiaries. Reports are required in certain cases under NDCC 6-08.2-04 if the charitable remainder trust holds interests in banking institutions.
339. NDCC 30.1-33-01. Generally no judicial or other intervention unless requested by interested parties.
340. NDCC 30.1-34-03. Within 30 days after acceptance of the trust the trustee must notify charitable beneficiaries and beneficiaries with possible future interests. NDCC 59-04-02 provides that the Attorney General and the State’s Attorney of the county where the trust is established are deemed to be persons interested in the trust estate if trust administration is to be supervised. Presumably, this would apply even though the trust is not administered under supervised administration.
341. NDCC 59-02-22. Certain provisions of the Internal Revenue Code are deemed incorporated into charitable trusts.
342. NDCC 57-37.1-04. North Dakota state estate tax is equal to the maximum state tax credit allowed on the federal return.
343. Presumably, no. Charitable public disclosures are probably not required.

344. Presumably so if specific power to change the charitable beneficiary is retained by the grantor.
345. NDCC 59-02-18.
346. Presumably so if specific authority to change the charitable beneficiary by the trustee is retained by the grantor and given to the trustee (See, NDCC 59-02-18) and an original charitable beneficiary is named with reasonable certainty (See, NDCC 59-01-04 and NDCC 59-02-12).
347. Presumably so. No authority available.
348. NDCC 59-02-12.
349. Probably so if authority reserved under the original trust agreement pursuant to NDCC 59-02-18.
350. Presumably so to comply with changes in federal law.
351. If supervised administration of the trust is required by an interested party, the State must be notified of any amendments. NDCC 59-04-02.
352. NDCC 59-02-18. Statute provides that a trust cannot be “revoked” without the consent of all beneficiaries. Presumably, changing the distribution would be considered a partial revocation.
353. NDCC 10-06.1-10. The acquisition of farmland is restricted. Certain pre-January 1, 1983 trusts are exempted. NDCC 10-06.1-09. Ownership of farmland by a new charitable remainder trust is limited to property used for conservation of natural areas or habitats for biota. NDCC 10-06.1-11— if farmland is acquired by a non-profit corporation by gift or devise after December 31, 1984, it must divest itself of the property within 10 years.
354. NDCC 47-02-27.1. Life in being plus 21 years or completely vests or terminates within 90 years after creation.
- Special Note: Bond required of trustee unless terms of trust excuse trustee from providing one. — NDCC 30.1-34-04.
358. Under Ohio Revised Code §109.24. Attorney General’s specific statutory authority granted to investigate and supervise administration of all “charitable trusts” is in addition to authority at common law. Attorney General is also a required party in all legal proceedings involving charitable trusts—ORC Section 109.25.
359. Depends on terms of trust. To the extent its remainder is vested in a particular charity or charities, notice may be required, authority at the time of distribution.
360. Ohio does not tax trusts. Hence, a charitable remainder trust is tax-exempt even if it has unrelated trade or business income.
361. Ohio has no gift tax. Estate tax treatments are similar; however, federal and Ohio estate taxes paid from the interest funding the charitable remainder trust do not reduce the Ohio estate tax charitable deduction.
362. More supervision may apply to a charity. *E.g.*, charitable solicitation acts are generally irrelevant. Charitable remainder trusts are exempt by regulation from certain filing requirements.
363. If reserved in trust instrument.
364. Only if named charity ceases to be qualified under federal tax law.
365. Grantor may retain rights to amend trust amendment with Charitable Remainder Trust status. *E.g.*, he or she may retain the right to change charitable beneficiaries (among qualified charities), revoke by will the interest of an annuity or unitrust beneficiary, or the right to amend to preserve the qualified Charitable Remainder Trust status of the trust. Trusts can be amended only if power is reserved in trust instrument. Trust may be reformed with consent of Grantor (if living), beneficiaries and Attorney General under ORC Section 109.232.
366. ORC Section 109.232. Amendments to reform a trust so as to qualify as a charitable remainder trust under IRC §664 are permitted with the consent of the Attorney General, the Grantor (if living) and all affected beneficiaries. Broader powers to amend by Trustee may be granted under trust instrument. This is often done to allow Trustee to amend to preserve tax status. Still broader amendments might be permitted under state law, but might compromise federal tax status of trust.

OHIO

Calvin B. Kirchick
Cleveland, Ohio
August 4, 1997

355. Ohio Revised Code §109.26. Loosely enforced.
356. Ohio Revised Code §109.31. Regulations waived statutory requirements otherwise applicable.
357. Ohio Revised Code §109.31. Regulatory waiver of filing requirements effectively waived filing fee as well.
367. See note 371. But reformation (under Ohio Revised Code §109.232) is subject to Attorney General approval.
368. Reformation is subject to beneficiary approval. It is

unclear whether a charitable beneficiary interest must be vested for its approval to be required.

369. Not under state law. There are numerous federal tax law limitations (at least as a practical matter) on types of property contributed. State law rights may influence federal tax law results of contributions of certain types of property.
370. Ohio Revised Code §111.01(G). Charity itself or a charity with similar purposes must be a beneficiary of the trust.
371. Ohio Revised Code §2131.08. Ohio rule against perpetuity (ORC Section 2131.08) is intended to enact the common law rule with wait and see exceptions, a reformation provision and a rule indicating that the rule starts when a trust becomes irrevocable. Abolition of the Ohio rule against perpetuity is now being considered. It is hard to see how a qualified Charitable Remainder Trust can violate the Ohio rule against perpetuities because a qualified Charitable Remainder Trust may be established only for persons in being upon the creation of the trust or for a term not greater than twenty years.
376. Oklahoma recognizes the authority of the State Attorney General to enforce charitable trusts under the doctrine of *Parens Patriae*. See, 60 O.S. 175.18.2 and *Sarkeys v. Ind. School Dist.* 40, 592 P2d 529 (1979).
377. 68 O.S. 2353.12.
378. 68 O.S. 808H. Oklahoma does not grant a complete marital deduction for Qualified Terminal interest property. 68 O.S. 807B.1. Rule 8.091 Oklahoma Tax Commission. Oklahoma does not have a gift tax.
379. No direct authority. Irrevocable trust may be revoked by trustor upon written consent of vested and contingent beneficiaries. 60 O.S. 175.41.

Note: Every trust in Oklahoma is presumed revocable unless expressly made irrevocable.

OKLAHOMA

Hal W. Ellis
Stillwater, Oklahoma
April 17, 1998

372. No direct authority regarding charitable remainder trusts. Oklahoma enacted the Charitable Fiduciary Act, 60 O.S. 301 et seq. It provides limited regulation and clarification of law when a charity (501(c)(3) organization) acts as trustee of a charitable trust. Oklahoma has enacted a Charitable Contribution Act, 18 O.S. 582.1, which requires registration of certain charities and the filing of an annual report with the State Attorney General.
373. No direct authority regarding charitable remainder trusts. If a charity is trustee for any charitable trust, the Charitable Fiduciary Act requires a fidelity bond. See, 60 O.S. 301.6.
374. No direct authority regarding charitable remainder trusts. If a charity is a trustee, the Charitable Fiduciary Act requires audit by certified public accountant. Copy of audit is required to be provided to State Banking Department, 60 O.S. 301.8. Oklahoma has enacted a Charitable Contribution Act, 18 O.S. 582.1, which requires registration of certain charities and the filing of an annual report with the State Attorney General.
375. No direct authority regarding charitable remainder trusts.
380. No direct authority. Irrevocable trust may be revoked by trustor upon written consent of vested and contingent beneficiaries. 60 O.S. 175.41. Oklahoma has adopted doctrine of cy pres. 60 O.S. 602. Notification of Attorney General required. 60 O.S. 175.18.
381. Oklahoma has adopted doctrine of cy pres. 60 O.S. 602. Notification of Attorney General required. 60 O.S. 175.18.
382. No direct authority. No statutory prohibition.
383. No prohibition or regulation. Charitable beneficiary need not be existence at the time of the creation of the trust. *Estate of Shaw*, 620 P.2d 483 (1980).
384. No Oklahoma authority on this point.
385. No direct authority. 60 O.S. 175.18 requires notification of Attorney General in the event of court action in case of charitable trust.
386. No direct authority. 60 O.S. 175.18 requires notification of any corporation which is beneficiary of charitable trust and present and contingent beneficiaries if court action in case of charitable trust is sought.
387. 60 O.S. 175.60—Oklahoma Uniform Prudent Investor Act.
388. 60 O.S. 301 et seq. The Charitable Fiduciary Act establishes requirements for a limited regulation of charitable organizations serving as trustees of charitable trusts.
389. 60 O.S. 175.47. Rule against perpetuities does not apply to property given for sole use of charitable entity.

OREGON

Patrick J. Green
Portland, Oregon
March 7, 1997

Primary authority: ORS 128.610- ORS 128.750, the Charitable Trust and Corporation Act (the "Act").

390. ORS 128.650 and 128.660. There are exceptions (i.e., charitable remainder trust where sole charitable beneficiary serves as trustee; religious corporations holding property for religious purposes; a regulated childcare agency).
391. ORS 128.670. The annual fee is based upon both 1) income and receipts (ranging from \$10.00 to \$200.00) and 2) upon the fund balance (ranging .001 of the fund balance) beginning at \$50,000 and phasing out over \$10M.
392. ORS 128.670.
393. ORS 128.680. Purposes are three-fold: 1) ensure compliance with terms and conditions with charity's articles of incorporation or governing instrument, 2) ensure compliance with the Act, and 3) investigate common law breaches of fiduciary duty. The Attorney General may exercise subpoena powers.
394. ORS 314.011.
395. ORS 118.020. The statute provides a credit against the state inheritance tax (which tax is imposed in the form of a "pick-up tax").
396. ORS 128.30. The statute applies the Charitable Trust and Corporation Act, ORS 128.610 to 128.750 to "all charitable corporations and trustees holding property for charitable purposes."
397. No contrary authority. Usually done by trust language authorizing a change by a subsequent will referencing the trust.
398. No authority found.
399. ORS 128.065. Deviation from instruments as to trustees duties and powers not authorized.
400. No contrary authority found.
401. No contrary authority found. Consistent with ORS 128.095 policy of keeping the trust tax qualified.
402. Consistent with policy mentioned in note 406 above.
403. Eq. see, change of or naming qualified charitable beneficiary, also trust modification permitted. ORS 128.115 to 128.185.

404. ORS 128.095: 1) Conformance to IRC Sections 4941 to 4945; 2) to broaden, extend, reduce or limit charitable purposes; 3) to terminate private foundation status in a manner described in IRC Section 507(b)(1).
405. ORS 128.095. 1) Attorney General, and 2) Charitable organization(s) if trust exclusively benefits.
406. ORS 128.620.
407. ORS 105.950. Statutory rule against perpetuities: 1) a non-vested interest vests or terminates not later than 21 years after a then living individual; or 2) the interest vests or terminates within 90 years after creation. Excluded are non-vested interests of charities, if the non-vested interest is preceded by an interest held by another charity. ORS 105.965.

PENNSYLVANIA

Kenneth L. Baker
Washington, Pennsylvania
June 18, 1997

408. The Orphans' Court Division of the Court of Common Pleas exercises broad supervisory powers. In addition, the Attorney General of Pennsylvania is required to receive notice under Orphans' Court Rule 5.5 of every proceeding in the Orphans' Court involving a charitable interest. Whether the Attorney General acts under the Common Law as *parens patriae*. See, *Commonwealth v. The Barnes Foundation*, 398 Pa. 458 (1960) and Pennsylvania Hunter Orphans' Court, Charities Section 10(a).
409. Pennsylvania has no gift tax.
410. *Gordon Trust*, 24 Fiduc. Rep. 215, 66 D&C 2d 752.
411. Pennsylvania does have the doctrine of *cy pres* and does allow reformation based on a unilateral mistake. See, *LaRocca Trust*, 411 Pa. 630 (1963).
412. See, 10 P.S. Section 204(2). Also see, doctrine of *cy pres*, 20 Pa. C.S.A. Section 6110
413. See, 20 Pa. C.S.A. Section 6110.
414. Court on Petition may use the doctrine of deviation and *cy pres* to permit the amendment of certain trust provisions to carry out the Settlor's intent and where compliance with administrative provisions of a trust are impossible, illegal, or in conflict with the central purpose of the trust. As previously indicated, the Courts may permit amendment and modification to comply with the Tax Reform Act.
- The Pennsylvania Courts have also shown a willingness to permit a modification of an irrevocable trust. See, *Harader Trust*, 449 A.2d 52 (1982), November

82 *Fiduciary Review*, *Colemena Estate*, 465 Pa. 163, *Stolzenbach Estate*, 346 Pa. 74. Also *See*, Pennsylvania Hunter Orphans' Court Trust Inter Vivos, Section 4.

415. 10 P.S. Section 204, *See also*, *Fiduciary Review*, March 1975, and Pennsylvania Hunter Orphans' Court Trust Inter Vivos, Section 4. For purpose of insuring that: 1) gifts and bequests to the charitable organization qualify for charitable deductions available for federal income, gifts and estate purposes; and 2) the charitable organization qualifies for tax exemption available for Federal Income Tax purposes.
416. 10 P.S. Section 204. *Matheny Estate*, 1 *Fiduciary Reporter* 2nd 96, *Schollar Trust*, 403 Pa. 97. Orphans' Court, Court of Common Pleas of County of situs of the trust. If the trustee does not have the power as set forth in question 17, Section 204(b) provides: "nothing in this Act shall preclude a court of competent jurisdiction from authorizing a deviation from the express terms of an instrument governing a charitable organization." Also *see*, March 1997 *Fiduciary Review*, June 1997 *Fiduciary Review*.
417. *Day Estate*, 455 Pa. 610, *Fiduciary Review* May 1974.

RHODE ISLAND

Nancy Fisher Chudacoff
Pawtucket, Rhode Island
April 13, 1998

418. 18-9-7 requires registration of "charitable trusts." Not clear from definition of charitable trust (18-9-4) whether registration required while non-charitable income interests being paid; some practitioners advise reporting; others do not.
419. 18-9-13. *See*, note number 423.
420. 18-9-9. Attorney General authorized to investigate charitable trusts.
421. 33-13-1 requires Probate Court to give notice of devise or bequests to a corporation or voluntary association within 30 days of admission of will to probate.
422. 44-30-1(d).
423. 44-22-1.1. Rhode Island does not tax transfers by gift.
424. No authority, but many charitable trusts allow donor to change charitable beneficiary.
425. No authority, but Superior Court could authorize a change pursuant to its general equity jurisdiction or pursuant to cy pres proceeding.
426. No authority—see, note number 430. *See, Rhode*

Island Hospital Company v. Olney, 16 RI 184, 13A. 118 (1888).

427. *Selleck v. Thompson*, 28 RI 350, 67 A. 425 (1907); *Pell v. Mercer*, 14 RI 412 (1884).
428. No authority.
429. 18-4-23. Amendments generally permitted to allow trusts to qualify as charitable remainder trusts; cy pres and other reformation under general equitable jurisdiction of Superior Court 8-2-13.
430. Not subject to approval by state but notice required to Attorney General 18-9-5.

SOUTH CAROLINA

W. Steven Johnson
Columbia, South Carolina
February 28, 1997

431. *See*, S.C. Code Ann. Section 62-7- 501 (Law Co-op. 1987).
432. *See*, S.C. Code Section 62-7-502.
433. *See*, S.C. Code Section 62-7-503.
434. *See*, S.C. Code Section 62-7-303.
435. The South Carolina Probate Code has a separate chapter on charitable trusts, (Sections 62-7-501 through 62-7-507). It does not appear that other laws affecting charities apply to charitable trusts.
436. The power to revoke or modify a trust is determined by the language in this instrument. *See, Peoples National Bank of Greenville v. Peden*, 92 S.E. 2d 163 (1956).
437. *See, note 441*. The language in the instrument must contain such authority.
438. *See*, notes 441 and 442 above.
439. *See*, notes 441, 442 and 443 above.
440. If the authority was written in the trust document to designate a charity at a later date, then such would be permissible.
441. The power to amend must be written in the agreement to allow for such amendments.
442. If the trust document allowed for such amendment, then the trustee could make the amendments.
443. Language of the trust would control but charitable beneficiary would have no right to approve unless so dictated by the terms of the trust.

444. See, S.C. Code Section 62-7-302.
445. See, S.C. Code Section 62-7-207.
446. See, S.C. Code Section 62-7-105.

SOUTH DAKOTA

Thomas E. Carr
Belle Fourche, South Dakota
April 27, 1998

Substantial revisions were made to SDCL 55-3, Trusts for Third Party Beneficiaries. (Effective July 1, 1998.)

447. No state income tax.
448. No state transfer tax.
449. Perhaps if the donor retains the power to amend and if not, by court order pursuant to SDCL 55-9-4.
450. Without consent of beneficiary (SDCL 55-3-6).
451. Not if trust is irrevocable and not without consent of beneficiary.
452. *In Re: Geppert's Estate*, 95 NW2d 727.
453. If the power to revoke and amend are retained by the terms of the trust. See also SDCL 55-1B-6, Powers and Discretions of Trust Protector.
454. See also SDCL 55-1B-6.

TENNESSEE

R. Michael Potter
Memphis, Tennessee
January 16, 1997

455. T.C.A. Section 35-50-119. Trustee must notify current income beneficiaries and named remainder beneficiaries within 60 days of funding. Successor beneficiaries to be notified upon termination of the prior interest.
456. T.D.R. Rule 1320-3-2.13. Income is taxed to the income beneficiary when distributed in the following order: 1) income subject to tax at 6% under TCA §67-2-102(a), 2) income subject to tax at 4% under TCA §67-2-102(b), 3) income not subject to tax, and 4) trust corpus.
457. Valuation is determined by federal transfer tax treatment (TCA §67-8-107(b) (gift tax)); TCA §67-8-310(a) (inheritance tax). Deduction allowed to qualified charitable organizations, even if not a qualified interest under IRC §170(f)(2)(A). (TCA §67-8-103 (gift tax)); TCA §67-8-315 (inheritance tax).
458. For example, charitable solicitations regulation (TCA §48-501, et seq.) only applies to solicitations of funds.

459. TCA §35-9-106.
460. TCA §35-9-106. To conform with the provisions of IRC §§170(f), 642(c)(5), 664, 2055(e) and 2522(c). Allows amendment by Trustee with the consent of all beneficiaries. Attorney General must be given a copy of proposed amendment and has 60 days to object.
461. TCA §35-9-106. If Attorney General objects to the proposed amendment, however, the amendment must be made by a court of competent jurisdiction.

TEXAS

Marjorie S. Schultz
Houston, Texas
January 15, 1997

462. Chapter 123 Texas Property Code. Attorney General may sue fiduciary of a charitable trust for breach of fiduciary duty. Attorney General is also a proper party to, and must be given notice of, any proceedings involving a charitable trust.
463. No state income tax.
464. No state transfer tax.
465. No annual reporting requirements.
466. Would require a court action.
467. Default should be named.
468. Administrative provisions or their changes required because of changes to regulations under §664.
469. If permitted by document.
470. 21 year rule against perpetuities.

UTAH

Mark E. Lehman
Salt Lake City, Utah
February 18, 1997

471. Utah Uniform Probate Code Section 75-7-303(1).
472. Utah Code Ann. Section 59-10-201.1.
473. Utah Code Ann. Section 59-11-103. Utah has adopted the "pick-up" transfer tax to collect the credit under § 2011 of the IRC. Accordingly, the charitable gift is accounted for in the federal transfer tax calculation. Utah has no gift tax.
474. There are no state tax laws directed specifically at charities, except for the Charitable Trust Act under Chapter 18 of Title 59 of the Utah Code Ann., which is intended to preserve charitable tax credits and deductions.

475. *Kline v. Utah Department of Health*, 776 P.2d 57, 61(Utah App. 1989); *see also*, *Continental Bank and Trust Co. v. Country Club Mobile Estates*, 632 P.2d 869 (Utah 1981).
476. *Continental Bank and Trust Co.*, 632 P.2d at 872.
477. *Estate of West*, 915 P.2d 504, 506 (Utah App. 1996). Except as required by Charitable Trust Act.
478. *Estate of West*, 915 P.2d 506. Except as limited by Charitable Trust Act.
479. *Estate of West*, 915 P.2d at 506. The power to revoke or modify may be delegated by the trustor, if expressed in the trust instrument.
480. *See*, note 480 above. Whatever power is reserved by grantor.
481. Trust Act requires amendments in certain circumstances to preserve tax credits and deductions. It also limits power to amend.
482. Except as required by Charitable Trust Act.
483. The trustee is subject to the “prudent man” rule under Section 75-7-302 of the Utah Uniform Probate Code prior to July 1, 1995. Subsequent to that date the Uniform Prudent Investor’s Act applies to investment decisions.

VERMONT

Peter J. Monte
Northfield, Vermont
February 14, 1997

484. 4 V.S.A. §311a(6)(A) places venue in the Probate Court for the district where a charitable trust is recorded. 11 V.S.A. §1621 requires registration with the Vermont Secretary of State of the trade name of “all persons doing business in this state under any name other than his or her own...”
- Trustees conducting an act of business in Vermont should comply.
485. September 1 each year, and must be filed in the Probate Court having venue. Venue is determined by 4 V.S.A. §311a.
486. Probate Court has general jurisdiction of all charitable trusts. 4 V.S.A. §311. State Attorney General may intervene in the Probate Court’s annual accounting process. VRPP 24. As a party, the Attorney General may file discovery, contest the trustee’s account and otherwise participate in the Probate Court proceeding.
487. VRPP(a)(2) requires notice to beneficiaries of all Probate Court proceedings for the trust, including annually required accounts.
488. 32 V.S.A. §§5811, 5822. Non-Vermont municipal and state bond interest and gains are taxable 32 V.S.A. §5811(1)(A). Non-Vermont income (defined 32 V.S.A. §5823) is not subject to Vermont income tax. 32 V.S.A. §5822. Other exceptions to federal tax treatment are relatively minor—exclusion of certain federal credits not important to most trusts (e.g., 32 V.S.A. §5811(4)) and availability of credits for certain Vermont investments (e.g., 32 V.S.A. §5830(b) and 5830(c).
489. 32 V.S.A. §§7401, 7402, 7442a. Vermont has no gift tax. Act No. 140, 1979 (Adj. Session). Vermont estate tax is limited to IRC §2011 credit for state death taxes applicable to Vermont portion of estate. 32 V.S.A. §7442a.
490. 4 V.S.A. §311a(b); 9 V.S.A. §2471; 14 V.S.A. §§2328; 2501; 3401(1); 14 V.S.A. §2501. Neither statutes nor reported court decisions use the term “charitable remainder trust”. Statutory definitions of “charitable trusts” are so broad, however, that their application to charitable remainder trusts appears inevitable.
491. No special court or statutory rule exists for Vermont charitable remainder trusts. Common law rules apply. To preserve favorable tax treatment, the authority must be drafted with careful adherence to IRC requirements.
492. *See*, note 496 above. Cy pres is available if circumstances warrant (14 V.S.A. §2328).
493. *See*, note 496 above. The power must be reserved.
494. *See*, note 496 above. The power must be reserved. Cy pres is permitted through proceedings in probate court as with all charitable trusts (14 V.S.A. §2328).
495. State Attorney General may become a party to all cy pres proceedings and may contest grounds for cy pres or the nature of the required alteration of trust terms.
496. Named beneficiaries are a party to all cy pres proceedings and may contest grounds for cy pres or the nature of the required alteration of trust terms.
497. Charitable trusts are not subject to the rule against perpetuities. *Ball v. Hall*, 129 Vt. 200, 211 (1971). *Also see*, note 496, above.

VIRGINIA

David W. Whitehead
Richmond, Virginia
February 19, 1997

For ease, the Va. Code Ann. is abbreviated to “VCA”.

498. Testamentary trusts must account annually to the Commissioner of Accounts of the governing Circuit

Court unless the will waives such requirement or unless a current beneficiary or the Circuit Court requests an account anyway. VCA §26-17.7.

WASHINGTON

Mark W. Roberts
Seattle, Washington
January 29, 1997

499. The state has enforcement authority under VCA §55-29 and *cy pres* authority under VCA §55-31. It appears unclear whether the state has an affirmative investigatory authority, although it is clear that the state has standing to enforce charitable trusts. *Clark v. Oliver*, 91 Va. 421, 22 SE 175 (1895).
500. Virginia adopted a notice of probate statute in 1993, requiring notice to, among others, any beneficiary of a testamentary trust. No notice is required to a beneficiary of a non-testamentary trust receiving a bequest by will if notice is provided to the trustee of the trust. VCA §64.1-122.2.B.5.
501. There is no income tax reporting requirement. Only trusts required to file a federal income tax return must file returns. VCA §58.1-381.
502. Virginia has no gift tax. Its estate tax is the allowable federal state death tax credit which, of course, is based on the federal taxable estate (which excludes adjusted taxable gifts). VCA §58.1-902.
503. E.g., charitable remainder trusts are not exempt from *ad valorem* taxes. VCA §58.1-3600 et seq.
504. The principles applicable to charitable trusts are the same as for private trusts except where changed by the legislature. *Fitzgerald v. Doggett*, 155 Va. 112, 155 S.E. 129 (1930).
505. VCA §55-29.1 allows the trustee, with consent of grantor (if able) and Attorney General, to amend trust to conform with federal tax exemption requirements.
506. See, note 509, above. Also, Virginia's *cy pres* statute, VCA §55-31, allows the grantor to designate someone to fulfill the *cy pres* role which the court would otherwise assume.
507. See, notes 509 and 511, above.
508. See, note 510, above. Grantor should be able to amend if agreement provides. *Penn v. Keller*, 178 Va. 131, 16 S.E.2d 331 (1941).
509. See, note 510, above. Agreement should also be able to allow trustee amendment. See, note 509, above.
510. Attorney General. It appears state approval would not be necessary if the trust agreement allows for amendments.
511. VCA §55-29.1.
512. Transfer to a charity must vest within the period of the rule against perpetuities. VCA §55-13.3.6.
513. RCW 11.110.075. A copy of trust instrument should be filed within two months after commencement of life estate if trust consists of vested charitable remainder preceded by a *life estate*.
514. RCW 11.110.075. Annual reports required to be filed within two months after trust income or principal is authorized to be used for a charitable purpose, if the trust still continues to exist.
515. Washington does not have a state income tax.
516. Estate tax treatment mirrors federal estate tax, but Washington has no gift tax.
517. Registration and reporting requirements do not apply to charitable remainder trusts while the annuity or unitrust interest is extant.
518. There is no specific restriction under state law.
519. It may be possible for all interested parties to enter into an agreement to permit this under RCW 11.96.170, but it cannot be accomplished on a unilateral basis.
520. Amendments not permitted unless the trust instrument so provides. As mentioned above, all interested parties (including the grantors, trustee, and all beneficiaries) may enter into a written agreement to amend the trust under RCW 11.96.170.
521. Washington State Attorney General. If an amendment is made under RCW 11.96.170 and specific charitable beneficiaries are not listed in the trust, the Attorney General's consent is necessary.
522. If an amendment is made under RCW 11.96.170, all charitable beneficiaries must be parties to the agreement.

WEST VIRGINIA

Bruce L. Stout
Huntington, West Virginia
January 8, 1997

523. No authority on point. If a charitable remainder trust has unrelated business taxable income, it must submit a West Virginia income tax return, See, W.Va. Code §11-21-51(a).
524. W.Va. Code §11-21-3(d).
525. W.Va. Code §11-11-3. West Virginia does not have a gift tax.

526. W.Va. Code §§55-7C-1 *et seq.* Unlike qualified directors of non-profit corporations, trustees of charitable remainder trusts do not enjoy statutory immunity from civil liability.
527. General trust principles apply. *See, Grand Lodge of Independent Order of Odd Fellows v. Gunnoe*, 177 S.E. 2d 150 (W.Va. 1970).
528. General trust principles apply. *See, Harris v. Neal*, 55 S.E. 740 (W.Va. 1906).
529. West Virginia cases and statutes have not addressed this issue.
530. General trust principles apply. The grantor may make any amendments authorized by the trust agreement. *See, Grand Lodge of Independent Order of Odd Fellows v. Gunnoe*, 177 S.E. 2d 150 (W.Va. 1970).
531. General trust principles apply. The trustee may amend a trust if the trust agreement so provides. *See, Harris v. Neal*, 55 S.E. 740 (W.Va. 1906).
532. General trust principles apply. The grantor may not amend a trust without a reservation of such power unless the beneficiary consents. *See, Grand Lodge of Independent Order of Odd Fellows v. Gunnoe*, 177 S.E. 2d 150 (W.Va. 1970). The power of the trustee to amend the trust without the beneficiary's consent depends on the provisions of the trust agreement.
533. General trust principles apply. *See, Currence v. Ward*, 27 S.E. 329 (W.Va. 1897).
534. W.Va. Code §36-1A-1 *et seq.* Like other trusts, charitable remainder trusts are subject to the rule against perpetuities.
538. Strictly speaking, not *all* state laws applicable to charities are applicable to charitable trusts. For instance, charitable trusts are not subject to the statutory provision which gives the court discretion to make an allowance from principal for the benefit of an income beneficiary. Wis. Stat. §701.13(2) and (5)(b) (1995-96).
539. The terms of a charitable remainder trust may authorize the donor to modify or terminate the trust in whole or in part. Wis. Stat. §§701.13(6), 701.12(3) (1995-96). Notice of any proceeding to that end must be given to the Attorney General. Wis. Stat. §701.10(3)(b) (1995-96).
540. With a written consent of the settlor and all beneficiaries, the trust or any part thereof may be revoked, modified or terminated, provided that the Attorney General is given notice of any proceeding to that end. Wis. Stat. §§701.12(1), 701.10(3)(b) (1995-96).
541. However, in the absence of a clear charitable purpose, a charitable purpose may be selected by the trustee. Wis. Stat. §701.10(1) (1995-96). Also, the trust may be revoked, modified or terminated in whole or in part, with the written consent of the settlor and all beneficiaries. Wisconsin Statute §701.12(1) (1995-96). In addition, if the trust is silent on the issue, a trustee may petition the court to select a charitable purpose if a charitable purpose of the trust becomes impractical, unlawful or impossible. The Attorney General must be given notice of any proceeding conducted to change or select a charitable purpose or beneficiary. Wis. Stat. §701.10(3)(b) (1995-96).
542. Such authority may be exercised if it is otherwise in accordance with the law. Wis. Stat. §§701.12(3), 701.13(6) (1995-96). The Attorney General must be given notice of any proceeding conducted to change a charitable beneficiary. Wis. Stat. §701.10(3)(b) (1995-96).

WISCONSIN

Carl J. Rasmussen
Madison, Wisconsin
April 23, 1998

535. In the case of a testamentary charitable trust, a copy of the annual accounting shall be filed with the Attorney General and the court. Wis. Stat. §701.16(4) (1995-96).
536. Notice must be given to the Attorney General regarding any proceeding affecting charitable trusts. Wis. Stat. §§701.10(3)(b), 879.03(1)-(2)(c) (1995-96). The Attorney General may bring a proceeding to enforce a charitable trust. Wis. Stat. §701.10(3) (a)(2) (1995-96).
537. In the case of a testamentary charitable trust, a beneficiary is entitled to receive notice of a petition for administration. *See, Wis. Stat. §§856.11, 879.03(1)-(2)(a), 851.21(1)(c)* (1995-96).
543. No gift to charity is invalid for indefiniteness. Wis. Stat. §701.10(1) (1995-96). The creating instrument may also authorize the trustee to select a particular purpose or purposes. *Id.* If choice of a particular charitable purpose is not expressly authorized by the creating instrument, the trustee has an implied power to select one or more purposes. *Id.* Notice of any proceedings to that end must be given to the Attorney General. Wis. Stat. §701.10(3) (1995-96).
544. Wis. Stat. §701.10(1) (1995-96). Notice of any proceeding to that end must be given to the Attorney General. Wis. Stat. §701.10(3) (1995-96).
545. Revocation, modification or termination of a trust pursuant to its terms is allowed. Wis. Stat. §701.12(3) (1995-96). If a trust is silent on the issue, the trust or any part thereof may be revoked, modified, or terminated with the consent of the settlor and all beneficiaries, provided the Attorney General is

- given notice of any proceeding to that end. Wis. Stat. §§701.12(1), 701.13(b) (1995-96).
546. Revocation, modification or termination of a trust pursuant to its terms is allowed. Wis. Stat. §701.12(3) (1995-96). If a trust is silent on the issue, the trust or any part thereof may be revoked, modified, or terminated with the consent of the settlor and all beneficiaries, provided the Attorney General is given notice of any proceeding to that end. Wis. Stat. §§701.12(1), 701.13(b) (1995-96).
547. If a proceeding must be held to amend the trust, the Attorney General must be given notice of any such proceeding. Wis. Stat. §701.10(3) (1995-96).
548. Amendments must be approved by all the beneficiaries and the settlor if required by the terms of the trust or if the trust is silent on the issue. Wis. Stat. §701.12(1) (1995-96).
549. The common-law rule against perpetuities is not enforced in Wisconsin. Wis. Stat. §700.16(5) (1995-96). Moreover, charitable trusts are not subject to limitations on the suspension of the power of alienation. Wis. Stat. §700.16(4) (1995-96).
558. If such powers are retained in the trust instrument. Common Law. *Kerper v. Kerper*, 819 P2d 407 (Wyo. 1991).
559. If within the discretionary powers given the trustee. Common Law.
560. Unless the trust requires beneficiary approval.
561. American Common Law rule against perpetuities would apply. W.S. 34-1-139.

WYOMING

Thomas N. Long
Cheyenne, Wyoming
February 21, 1997

550. Beneficiary does not need to be expressly designated and therefore notice cannot be required or given. Common Law.
551. Wyoming has no income tax.
552. W.S. 39-6-812. Wyoming does not allow a Wyoming specific charitable deduction; the Wyoming pick-up tax is based solely on the percentage of the gross estate located in Wyoming.
553. There are no state laws directed at charities.
554. If such a provision is included within the trust document. Common Law.
555. Unless specifically provided for in the trust document, the trust is irrevocable and cannot be amended. Common Law. *Kerper v. Kerper*, 819 P2d 407 (Wyo. 1991).
556. Common Law.
557. W.S. 34-5-114.