

IRS Releases Revised Mortality Tables

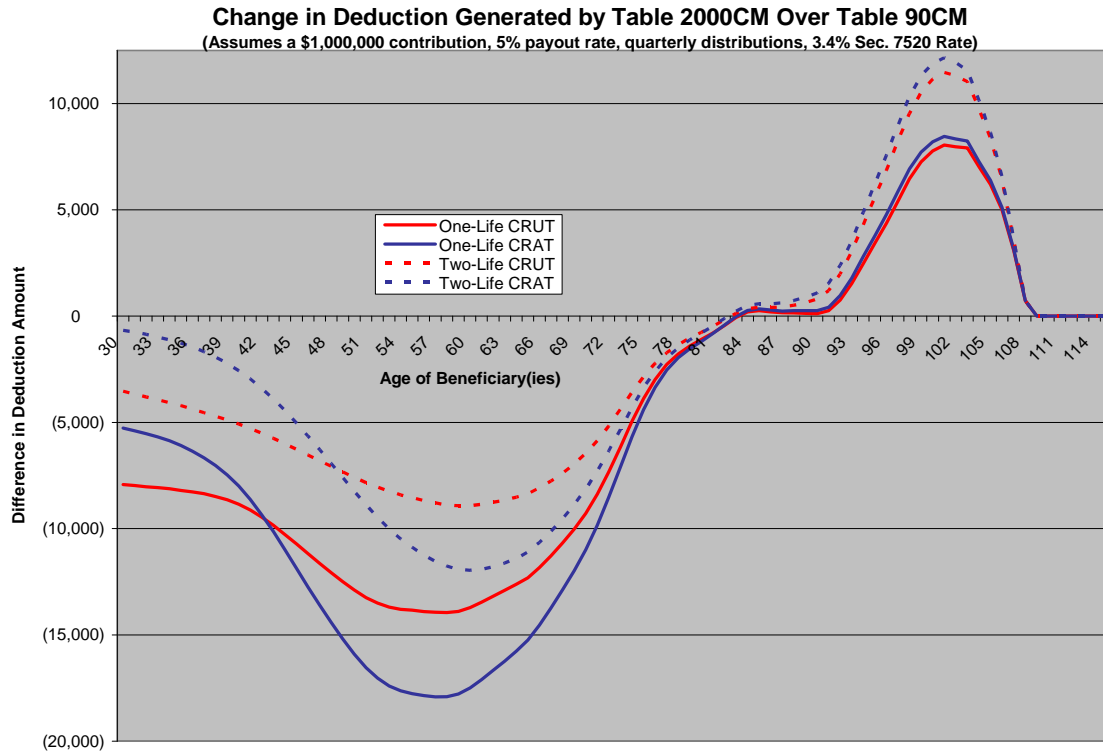
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On April 30, 2009 the IRS released an updated mortality table for use in computing (among other things) the charitable deduction arising from a contribution to a charitable remainder trust, charitable lead trust, charitable gift annuity, or pooled-income fund where the term of the agreement is measured by one or more lives. The new table, Table 2000CM, replaces Table 90CM (the old table). By statute this update is required every ten years and the new table reflects data from the 2000 census.

Why does this matter to you and your clients? The amount of the charitable contribution deduction available upon funding each of these charitable instruments is affected by the new mortality assumptions contained in the new table. In addition, the new table impacts the age at which a beneficiary (or beneficiaries) can establish a qualifying charitable remainder trust under the 10% remainder test of Internal Revenue Code §§664(d)(1)(D) and (d)(2)(D).

The Impact of Table 2000CM on the CRT Income Tax Deduction

The chart below illustrates the difference in the deduction generated by Table 2000CM and Table 90CM assuming a CRT funded by a husband and wife, each the same age. The difference was calculated by computing the deduction under each table and subtracting the deduction generated under the old table from the deduction generated under the new table. Between age 30 and age 82, the deduction generated under the new table is less than the deduction generated under the old table. However, beginning at age 83, the deduction under the new table exceeds the deduction under the old table. After age 109, both tables produce the same result. The scenario illustrated is based on a 5% payout trust. A larger payout rate shifts the curve a year or two to the right, but does not significantly alter the shape of the curve.



By age 60, the difference in the deduction amount under the two tables is less than 8% of the deductible amount and drops steadily to zero as the beneficiaries age. All in all the impact of the new table on the charitable remainder trust income tax deduction should not affect the decision to fund a charitable remainder trust.

The Impact of Table 2000CM on the 10% Remainder Test

Under IRC §664, when a charitable remainder trust is funded the value of the remainder interest must be at least 10% of the value of the assets contributed to the trust. CRTs with higher payout rates or younger beneficiaries may not pass this 10% remainder test. This is because the longer the term of the trust and/or the larger the payout rate, the lower the value of the remainder. Under the old table the cut-off age for a *one-life*, 5% payout charitable remainder unitrust was approximately age 25. Under the new table the qualifying age is extended to age 27. Increasing the payout rate to 8% raises the qualifying age for a one-life CRUT under the new table from age 43 to age 45.

Similarly, under the old table the cut-off age for a qualifying *two-life*, 5% payout charitable remainder unitrust was approximately age 37 (meaning that the younger of the two income beneficiaries could be no younger than age 37). Under the new table the minimum qualifying age is 38. Increasing the payout rate to 8% raises the qualifying age for a two-life CRUT under the new table from age 55 to age 56.

The Impact of Table 2000CM on Charitable Lead Trusts

The term of most charitable lead trusts is measured by a fixed term of years. However, where a charitable lead trust term is measured by a life or lives, then the impact of new

Table 2000CM is the inverse of the impact produced for a charitable remainder trust. Because the new table projects a longer life expectancy for younger beneficiaries (i.e., those under age 83), the deduction for a lead interest measured by the life of beneficiaries under age 83 will be greater under the new table than under the old table.

Conversely, the deduction for a lead interest measured by the life of beneficiaries over age 83 will be less under the new table.

Transition Period

The regulations provide for a two-month transition period from May 1, 2009 to June 30, 2009. The deduction for contributions made during this transition period may be computed using either table and a taxpayer may elect to use the result that produces the larger deduction.

Software Updates

Most major vendors of software used to compute the charitable deduction have now issued updates to their software incorporating the new table. If you have this software in your office, then you should be sure to install the update to ensure that you are providing current information to your clients.

Conclusion

The introduction of Table 2000CM is relevant because its use in computing the value of income and remainder interests for a variety of charitable (and non-charitable) tools is mandated by statute. In addition, planners should be aware that the minimum age of beneficiaries for a qualifying CRT has increased modestly. However, the impact of the new table on the deductible amount is small enough to be immaterial.