

Wills, Trusts,
and Estates

Class 14

Public (Charitable) Trusts

- Elements:
 - All the same elements as a private trust; PLUS
 - Charitable purpose;
 - Definite Class to be benefited;
 - Does not specify a beneficiary (if it does, it's not a public trust)
 - Can be for a single beneficiary ultimately as long as the beneficiary is not specified from the outset

Charitable Purposes

- **Relief of poverty and alleviation of suffering**
 - Does not have to be narrowly tailored to reach just “poor” people...
- **Education**
 - This can include lobbying or “educating” people as to how a law should be changed (i.e. it can espouse a political viewpoint), but it cannot support the commission of illegal or immoral actions

Charitable Purposes (cont.)

- **Religion**
 - This can be any religion, but a court may invalidate it if it considers the “religion” to be inconsequential or if the religion is premised on a basis that is illegal or immoral
- **Health**
- “**Mixed purpose**” trusts do not qualify unless the charitable beneficiaries are clearly distinguishable from the non-charitable beneficiaries

Rules Regarding Charitable Trusts

- Advantages:
 - Charitable trusts get **tax exempt** status
 - Exempt from the Rule Against Perpetuities for gifts to charities (**charitable trusts can last indefinitely**)
- Cy Pres Rule:
 - If the trust's purposes or beneficiaries no longer exist or are irrelevant, and the settler had "general" charitable intent (not just for that specific purpose or group), then a court can substitute a "similar" purpose or group of beneficiaries and apply the trust money toward that purpose.

Quiz Time!

Four Types of Charitable Trusts

Four Types of "split" Charitable Trusts

Charitable Lead Annuity Trust (CLAT)



Charitable Lead Unitrust (CLUT)



Charitable Remainder Annuity Trust (CRAT)



Charitable Remainder Unitrust (CRUT)



Green line =
charitable interest
Other color line =
private interest