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Kathleen Martin is an attorney with O'Donnell, Weiss & Mattei, P.C., and a newspaper columnist for The Mercury, which gave permission for this article to be reprinted.

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Some tips on funding a charitable remainder trust

Americans are proud of their philanthropic nature, as charitable giving is a tradition in this country. As a matter of fact, studies have shown that even lower and middle income Americans give generously to charitable organizations regardless of income and resources. Many people continue that lifetime inclination by leaving bequests to charities in their Wills. However, a recent article in Elder Law Answers (www.elderlawanswers.com), reminds us that instead of leaving money to a charity in your Will, funding a charitable remainder trust can provide you with income while you are alive, and the remainder will go to charity at your death.

A charitable remainder trust is an irrevocable trust that provides the "owner" or grantor (and possibly a spouse) with income for life. Assets are placed in the trust, and a set percentage is paid to the grantor. At death, the remainder in the trust is paid to the charity or charities of choice. There are many advantages to such a trust. At the time of trust creation, there is an income tax deduction for charitable giving. Any profits from sale of investments within the trust are not subject to capital gains tax, so that the trustee may have more leeway with managing the investments. At death, assets in the trust will pass outside the estate, and may be eligible for the estate tax charitable deduction. Such a trust can reduce income and estate taxes, and help to diversify assets.

There are disadvantages also. Since the trust is irrevocable, there is no turning back once it is created. It may be possible to change the ultimate beneficiary to a different charity, but you cannot get back the money once placed in the trust. However, you may be able to function as the trustee of the trust, giving more control over how the trust assets are invested. Additionally, the income from the trust is subject to any income taxes.

The decision to consider a charitable remainder trust should be made after consultation with a trusted financial advisor and your attorney. This is just one vehicle to consider in your overall estate planning strategy, taking into account your long term care needs also. Since no action has yet been taken by U.S. Congress on the federal estate tax issue, careful planning may be necessary to avoid a large percentage of your estate being consumed by federal estate tax unnecessarily.

It is also a good time of year to consider other tax planning strategies. For instance, the Certified Public Accountants and Business Counselors at Maillie, Falconiero & Company, LLP (www.maillie.com), recently pointed out that absent Congressional action, the long-term capital gains rate will increase next year from its current maximum of 15 percent to 20 percent (18 percent on assets held for over five years). There are strategies that may take advantage of the current long-term capital gains tax rate with current federal interest rates that could result in tax savings long term. Again, be sure to consult with your trusted financial and tax advisor for assistance with this, considering your overall estate planning needs.