Crypto and CRTs: Buried treasure, or hidden pitfalls?

“For federal tax purposes, virtual currency is treated as property. General tax principles applicable to property transactions apply to transactions using virtual currency.”

That’s a key phrase in IRS Notice 2014-21, where the Internal Revenue Service outlined its position on the tax treatment of the disposition of cryptocurrency. In other words, a taxpayer’s disposition of cryptocurrency will generally be treated as triggering a gain or a loss.

With this core principle at its foundation, taxpayers have been using cryptocurrency to fund their charitable goals, including establishing charitable remainder trusts with gifts of bitcoin and other cryptocurrencies. While this is certainly a strategy worth exploring for some of your clients, beware that the IRS’s commitment to increased enforcement, coupled with the purported widespread underreporting of cryptocurrency-related income and corresponding tax revenue losses, clients should proceed with caution. The IRS has even launched a special initiative to audit crypto reporting and catch fraud, calling the effort Operation Hidden Treasure.

As always, keep in mind the old saying that a client “should not give away a dollar to save 50 cents.” As is the case with any legal structure that results in tax consequences, there are pros and cons, *ie*.,“charms and dangers.” Think of a charitable remainder trust–including one funded with cryptocurrency–as a vehicle for helping clients support the charities they love, not simply a tax-planning tool. Viewed through that lens, clients will be pleased that a charitable remainder trust not only provides them with an income stream, but also can offer flexibility in the ways they provide for their intended charitable beneficiaries, especially when aligned with a fund at the community foundation that supports a client’s philanthropic goals.