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STRATEGY SPOTLIGHT*

Qualified Personal Residence Trust (QPRT)

A qualified personal residence trust (QPRT) is a type of irrevocable grantor trust where the grantor transfers title of his or her personal residence to the trust but reserves the right to occupy the residence for a determined period, or "term of years."

KEY POINTS

The property must be occupied as a residence at time of transfer and for the entirety of the term to qualify as a QPRT.

The taxable gift value of grantor's transfer of the residence to QPRT is reduced by their retained right to continue to occupy the property during the term.

The grantor will have to outlive the term of the QPRT in order for the entire value of the property to be removed from his or her estate.

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A QPRT is designed to hold a personal residence, which can include the grantor's principal residence, a vacation home, and/or an undivided interest in either the personal residence or vacation home. To qualify the property for QPRT status, the property must be occupied by the grantor as a residence at the time of the transfer and remain that way throughout the term.

The benefit of a QPRT is that the taxable gift value of the grantor's transfer of the residence to the QPRT is reduced by the grantor's retained right to continue to occupy the property during the term of the QPRT. The retained right to occupy is determined using the Section 7520 interest rate ("7520 rate") at the time of the transfer to the QPRT. If after the transfer, the residence appreciates in value (during the QPRT term), all the appreciation plus the value of the grantor's retained interest will be removed from the grantor's estate for estate tax purposes. The goal of the QPRT strategy is to transfer the grantor's home to their beneficiaries at a discount from the home's actual value. Having the remainder beneficiaries named in the QPRT allows them to take control of the residence when the term of years ends, which avoids the probate process as well.

The drawback to the QPRT is that the grantor must outlive the term of the QPRT to remove the entire value of the property from their estate. It is important to select a length of time that the grantor believes they will outlive. If the grantor dies before the term is up, the residence will still be in their estate. If the grantor outlives the term, the residence will transfer to the beneficiaries free of further estate or gift tax. At the end of the QPRT term, the grantor must begin to pay fair market value rent if he or she wants to continue to reside in the property.

Some other things you may want to consider when looking at a QPRT:

- If you have more than one home, you can establish a separate QPRT for one or two of them, with each trust holding an interest in one home.
- You can sell your home if it is in a QPRT. However, what happens to the trust will depend on what you do with the sales proceeds. Consult your personal tax and legal advisor for more information.
- You can have multiple QPRTs for the same home, each with a partial interest in the residence. Each one can last for a different period. This can reduce the risk that the full value of your home will be included in your estate if you die during the QPRT term.

You can place a home subject to a mortgage into a QPRT, but that may be a poor choice due to potential gift issues. Consult your personal tax and legal advisor for more information.

When considering the benefit of creating a QPRT, the higher the Section 7520 rate at the time of creation and the longer the term, the higher the value of the grantor's retained value and therefore the lower the value of the gift. The opposite is also true: the lower the Section 7520 rate and the shorter the term, the lower the value of the grantor's retained interest, which creates a higher gift value. The QPRT may still be beneficial in a low interest rate environment if the value of the property is depressed and likely to appreciate.

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