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QPRT Summary

Qualified Personal Residence Trust

18 August 2011

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What are the advantages of a Qualified Personal Residence Trust?

- Large estate tax savings
  - Transfer property to your children in the future at a fraction of today's actual value and avoid inclusion of the property in your estate (at 100% of a much greater future value)
- Very low tax risk
  - The IRS has promulgated regulations to govern use of the QPRT – it is a "safe harbor" technique
- Easy to implement and administer

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How does the QPRT work?

- Personal Residence
- Gift to Trust with Retained Interest
- Valuation Discount
- Tax Benefits
- Terms of Trust

Personal Residence

- Primary Home OK
- Vacation Home OK
- Fractional interest in a home OK
- No more than 2 residences at a time
- Rental Property or Commercial Use NOT OK
- Mortgaged property OK but often too difficult
- Some surrounding land, but not too much!

Gift of Trust with Retained Interest

- You make a gift of the property to a trust – your children do not have to buy it
- You retain right to occupy the property during the QPRT term
- Your retain the “right” to get the property back in the event of your death to pay for estate taxes
- You can continue to occupy the property following the QPRT term, though you will have to pay rent
- You continue to receive tax deductions for property taxes and remain eligible for exclusion from gains tax on resale

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Valuation Discounts

- Transfer is a gift for tax purposes – subject to gift tax (ordinarily current FMV)
- You are entitled to 2 key discounts to current FMV:
  - #1 – Your children must wait to get the property (until QPRT term is over)
  - #2 - You retain the “right” to get the property back if you die before the QPRT term is over
- These discounts can result in <u>substantial</u> reductions to current FMV

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Tax Benefits

- After the QPRT Term – the property is out of your estate for estate tax purposes
- All appreciation is out of your estate for estate tax purposes
- Any rent you pay after the QPR Term is out of your estate for estate tax purposes
- There are no adverse income tax consequences, and probably no realty transfer tax consequences
- No gift tax consequences unless you have already used up your lifetime exemption

Terms of Trust

- The QPRT can insure the residence
- The QPRT can hold some (not much) cash for the payment of routine expenses
- You are not prevented from selling the residence out of the QPRT (though planning is required during this process)
- Following QPRT term, you can continue the trust for the benefit of your children (there may be excellent reasons to do so).

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Drawbacks

- You must survive the QPRT term to achieve the estate tax savings
  - (Note possibility of fixing this problem with term life insurance)
- May have to rent the property back at end of QPRT term
  - (Note that this can be an excellent estate/gift tax planning device)
- The QPRT is an irrevocable trust – there may be no commutation
  - (Note that you retain right to make key changes)
- May use some or all of lifetime gift tax exemption OR even owe gift tax at inception

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Thank you.

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NOTICE ABOUT IRREVOCABLE PLANNING TECHNIQUES: The decision to use a qualified personal residence trust requires a balancing of the tax benefits and the potential loss of control that comes with placing the property in trust. Because the QPRT is irrevocable, you should give serious consideration to whether it is appropriate for you.