Qualified Personal Residence Trust (QPRT)

A Qualified Personal Residence Trust (QPRT) is an estate planning tool that allows a homeowner to transfer the value of their primary residence (and one other personal residence) to an irrevocable trust outside of their estate reduced by the value of his or her retained right to live in the home for a specified term. At the end of the term, the residence passes to the beneficiaries of the trust, typically children or other family members, income, gift and estate tax-free.

DESCRIPTION OF STRATEGY

The grantor establishes a QPRT and transfers the title of a personal-use residence to an irrevocable trust. The grantor retains the right to possess and live in the home for a specified term of years. After the end of the term, the residence's possession and ownership vests in the trust's remainder beneficiaries, typically children or other family members. Generally, the gift tax value of the transfer is the value of the residence transferred into the trust reduced by the value of the grantor's retained right to live in the residence for a term of years. After the QPRT term expires, the grantor must either give up possession of the residence or pay rent to the remainder beneficiaries for continued possession. However, if the grantor dies during the QPRT term, the entire value of the residence is included in the grantor's estate. During the grantor's term of years to possess the residence, the grantor pays all costs of maintenance, utilities and taxes with respect to the residence. Improvements to the residence may be considered an additional gift to the QPRT and require some additional consideration. Likewise, residences subject to a mortgage require some additional consideration as the payment of the mortgage principal creates a potential gift. It's easiest to transfer unencumbered property. If the residence is sold during the QPRT term, the proceeds can be reinvested into another residence within 2 years, otherwise the unreinvested proceeds will be used to pay an annuity to the grantor similar to a GRAT. A QPRT will also fail if the primary purpose is no longer a residence for the grantor. For example, if the grantor rents the residence or moves out of the residence, it will no longer qualify as a QPRT. These are some additional facts to review with the grantor before establishing a QPRT. Ultimately, a QPRT can provide significant savings in gift and estate taxes due to the reduced gift valuation for the retained QPRT term of years along with the growth in the value of the residence during the QPRT term.

KEY BENEFITS

Tax Efficiency

The primary benefit of a QPRT is the potential for significant estate and gift tax savings. The value of the gift is discounted due to the delay before the beneficiaries receive the residence, which is typically between 7 and 20 years.

KEY BENEFITS (CONTINUED)

Continued Use of Residence

The grantor can continue to live in the residence for the specified term rent-free.

Post-Term Tax Efficiency

Once the term is over and the residence has transferred (usually to trusts for children), the grantor can then pay rent to the trusts for the children to continue to use the home. The rent essentially acts as a tax-free gift to the trust for the rest of the grantor's lifetime.

Asset Protection

Once the residence is contributed to the trust, it is generally protected from the grantor's creditors.

RISKS/DRAWBACKS

Irrevocability

Once the residence is placed into the QPRT, the decision cannot be easily undone. However, if a grantor would like to move to a new residence, QPRTs allow for a residence to be sold and a new one purchased within 2 years.

Longevity Risk

If the grantor dies before the specified term ends, the full value of the home is included in the grantor's estate for tax purposes, negating the benefits of the QPRT.

Loss of Control

After the trust term ends, the residence belongs to the trust beneficiaries (or trusts for them). If the grantor wishes to continue living in the residence, the beneficiaries or the trustees of the trust holding the residence must consent.

Costs and Complexity

QPRTs are complex legal structures, and their establishment involves attorney's fees and potentially ongoing administrative costs.

OPPORTUNITIES TO UTILIZE

High Net Worth Individuals with Home as Major Asset

Those with substantial estates where a home is a significant part of their wealth can make efficient use of their gift and estate tax exemption using a QPRT.

Homeowners Planning for Long-term

Homeowners who are certain they want to stay in their principal residence or want to use a vacation home as a multi-generational gathering place may consider a QPRT.

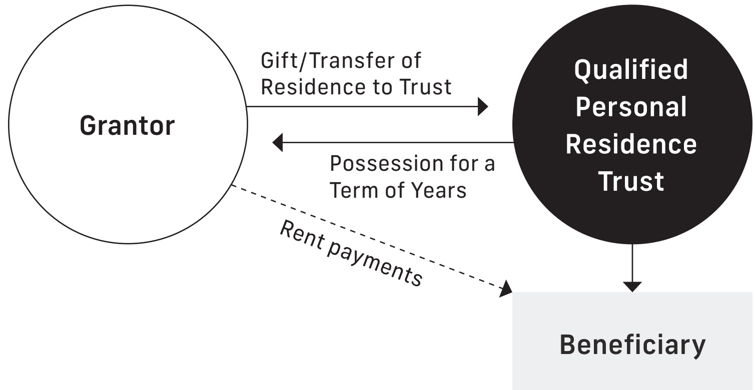
Asset Protection

Individuals with potential exposure to future creditor claims might use a QPRT as part of an asset protection strategy.

How it Works

GIFT CALCULATION

Amount Transferred	$1,000,000
Less: Annuity/Unitrust Retained	$839,972
Value of Gift	**$160,028**



Benefits

- Reduced gift tax valuation of residence.
- Future appreciation of residence is removed from your estate.
- At end of term, children own the residence and you must pay rent for its use. This rent is a tax-free gift to your children.

Drawbacks

- You must survive the stated term of the QPRT or the residence will be included in your estate.

Required QPRT Provisions

Rev. Proc. 2003-42: IRS has provided a model QPRT form

Required Provisions:

- Only one personal residence and 6 months of cash for expenses or improvements
- All income must be distributed annually
- No commutation of Grantor's interest
- Prohibit purchase of residence by Grantor during QPRT term

Provisions that cause QPRT to cease:

- If residence is sold, replacement must be purchased in 2 years
- If residence is not used as a personal residence
- If residence is unusable due to damage, residence must be repaired or replaced in 2 years

If QPRT ceases, it converts to a GRAT