

QTIP Trust

Strange Name, Powerful Trust

Granted, a QTIP trust is an odd sounding name for an estate planning technique. Nevertheless, it can be a valuable strategy, especially if you're currently in a second marriage. The QTIP moniker is an acronym for the technical term of "qualified terminable interest property." Essentially, this trust provides future security for both a surviving spouse and children from a prior marriage, while retaining estate planning flexibility.

Notably, the federal estate tax due on QTIP trust assets is postponed until the death of the surviving spouse. At that time, his or her gift and estate tax exemption may shelter the remaining trust assets from tax.

A QTIP Trust In Action

Generally, a QTIP trust is created by the wealthier spouse, although sometimes both spouses will establish a corresponding trust. When the grantor dies, the surviving spouse assumes a "life estate" in the trust's assets. This provides the surviving spouse with the right to receive income from the trust, but he or she doesn't have ownership rights – thus, he or she can't sell or transfer the assets. Upon the death of the surviving spouse, the assets are passed to the final beneficiaries, who are typically the children from the grantor's first marriage.

Accordingly, you must designate the beneficiaries of the QTIP trust, as well as the trustee to manage the assets. This could be your spouse, adult child, close friend, or, as is often the case, a third-party professional.

A side benefit of establishing a QTIP trust is that it may alleviate family tensions. Your current spouse can relax, realizing that he or she will be

taken care of. At the same time, your children from a prior marriage know that they won't be "cut out of the estate" by a stepparent who might turn against them or remarry.

Of course, a QTIP trust can't provide ironclad protection against family conflicts that may arise after your death. For instance, the parties may differ over the allocation of assets from an investment viewpoint. This is one of the reasons why it's often a good idea to appoint an independent professional trustee.

Ultimately, however, the decision is up to you. Talk things over with your spouse and children before you make any commitments.

Estate Tax Ramifications

A QTIP trust is designed to combine the estate tax benefits of the unlimited marital deduction and the gift and estate tax exemption. When you create the trust and provide a life estate to your spouse, the assets are sheltered from tax by the unlimited marital deduction after your death.

After your spouse passes, assets in the QTIP trust are subject to federal estate tax. However, the gift and estate tax exemption will likely shelter most estates from estate tax liability.

Planning Flexibility

A QTIP trust can provide added flexibility to your estate plan. For example, at the time of your death your family's situation or the estate tax laws may have changed. The executor of your will can choose to not implement a QTIP trust if that makes the most sense. Otherwise, the executor makes a QTIP trust election on a federal estate tax return. (It's also possible to make a partial QTIP election.)

Once the election is made and the estate tax return is filed within nine months after the death (plus an additional six months if the executor obtains an extension), it's irrevocable. There's no going back.

Right For Your Plan?

If you wish to provide for your spouse after your death, but at the same time ensure that your children ultimately receive the inheritance you want to provide for them, a QTIP trust might be the right option. A QTIP trust may also be viable if you have concerns about transferring assets outright to your spouse. Contact your estate planning advisor to learn if a QTIP trust is right for you.

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