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The Savvy Investor

Cut Your Estate Taxes With a Personal Residence Trust

With a Qualified Personal Residence Trust, or QPRT, you transfer your residence or vacation home to an irrevocable trust. You remain the trustee for a fixed period of time, such as 10 years. You also are the beneficiary during this same time period. There are definite tax advantages in setting up a QPRT, but there are also some problem areas to consider.

Since you are the trustee, you have full control over the home and property after you set up the trust and until the selected time period (10 years in our example) arrives.

If you die before the end of the stated time period, the property is part of your estate and you didn't get any tax advantage. **Therefore, you want to make sure to select a time period short enough so that you are still alive when the trust ends.**

The benefit comes if you live beyond the selected time period because the property is now out of your estate.

If you are still alive at the end of the time period you selected (10 years), the property is transferred to the trust beneficiaries, such as your trusted children (no pun intended). Therefore, it is no longer part of your estate after being transferred and it is escapes estate taxes and any additional gift tax (if any) that you may have paid during the transfer process.

You can live in the home during the time the trust is in force. After the selected time period, your children (or other heirs) will own the house, or it can stay in a trust with them as beneficiaries

At the time you transfer the property to the QPRT you are deemed to have made a gift to the remainder beneficiaries. The tax advantage arises because the value of the gift is based on the discounted present value of the remainder beneficiaries' right to acquire the property in the future. (The amount of the discount varies, depending on your age, the trust's term and the IRS-published interest rates at the time of the gift.) Your gift tax is thus based on a steep discount from the property's current value. Assuming you live out the term of the trust, upon your death the property, including the property's appreciation in value, is not included in your estate and therefore escapes estate tax.

Several problems to consider: First, the trust is irrevocable. Once you put your property in the trust, you can't change your mind and remove the property from the trust. You can live in it, during the life of the trust (and thereafter if you rent it from your beneficiaries). However, you can't sell it if you need the money.

Second problem is that you better trust your children and their spouses if you want to live in the house after the trust ends. They are the beneficiaries and owners after the trust ends and can decide who lives in the house. Or they might even decide to sell it. Even if you trust your only child, you can be out of a place to live after the deed is transferred if his spouse decides to divorce your blessed child and is granted the house by the divorce courts.

The house should escape the nursing home or state. However, there is a three-year look-back rule and I would assume it applies here. That is, you better create the QPRT at least three years before you contemplate going into the rocking chair in your favorite nursing home.

More Information

We work with an excellent team of estate attorneys to assurethat your estate plans meet your wishes.

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