Ivan & Daugustinis
ESTATE AND TAX ATTORNEYS

Michael J. Ivan, Jr. +^
Robert Daugustinis
Clayton T. Miller
Andrew M. Woods ^
Michael P. Tyson *^

Board Certified in Taxation +
LL.M. in Taxation ^
Of Counsel *

QUALIFIED PERSONAL RESIDENCE TRUST (QPRT)

Freezing the Summer Home

In November 2018, the IRS announced anti-clawback regulations regarding the current federal estate and gift tax exemption amounts. This means that a person using their lifetime federal exemption amounts will not be penalized if the relatively high exemption amounts decrease at some point in the future. The Tax Cuts and Jobs Act of 2017 significantly increased the federal estate and gift tax exemptions, which stand at $12,920,000 per individual for 2023. However, the Act is set to expire on December 31, 2025, and these exemption amounts may disappear. A Qualified Personal Residence Trust (or "QPRT") is one way to make sure you use it before you lose it by transferring certain real estate into trust, as discussed below, and "freezing" the value from future estate taxation.

QPRT Overview

- ☐ Grantor creates QPRT, an irrevocable trust that allows grantor to live on the property for a term of years and designates beneficiaries, usually family members.
- ☐ Grantor contributes or gifts real property to the trust, creating a taxable lifetime gift.
- ☐ The property reverts to the remainder beneficiaries after the expiration of the QPRT term. However, the grantor may continue living in the house by leasing the property back from the remainder beneficiaries at fair market rent, which can further reduce the value of the grantor's taxable estate.

QPRT Advantages

- ☐ **Use of Gift Tax Exemption**. The amount gifted to beneficiaries in a QPRT falls under the grantor's lifetime federal gift tax exemption, helping to ensure that the current gift tax exemption amount does not go to waste.
- ☐ **Leveraged Gifting**. The value of the gift for tax purposes is the fair market value of the property minus the present value of the beneficiaries' right to receive the property at the end of the term of the QPRT. The "reduced" value of the gift allows the grantor to further leverage the current lifetime federal gift tax exemption by shifting wealth at a discounted valuation for tax purposes.
- ☐ **Tax Reduction**. The gift tax value is calculated at the time of the transfer, and all of the future appreciation will escape the grantor's taxable estate. In addition, a grantor can still claim real estate taxes and other associated deductions on their tax return.
- ☐ **Probate Avoidance**. Real property gifted to a QPRT is not subject to probate on the death of the grantor. A trustee or successor trustee has continuous and immediate access to the QPRT and can immediately transfer the subject property to the designated beneficiaries.
- ☐ **Multiple QPRTs**. Each individual may have up to two QPRTs at any one time, allowing a grantor to create a QPRT for a vacation home in addition to their primary residence.
- ☐ **Flexibility**. A grantor may sell real property that has been gifted to a QPRT without losing all of the tax benefits. To accomplish this, proceeds from the sale must be reinvested in a new real property that will now be subject to the original QPRT.
- ☐ **Low Risk**. If the grantor does not outlive the QPRT term, the value of the QPRT will be included in the grantor's estate and subject to estate taxes. However, the grantor's estate will receive credit for the initial gift to the QPRT and is no worse off than if the QPRT had not been created.