

Contacts



Terence Nunan
310.286.1700
tnunan@rutterhobbs.com



Emily Nelson
310.286.1700
enelson@rutterhobbs.com

Rutter Hobbs & Davidoff:

- Bankruptcy,
Reorganization,
and Capital
Recovery

As our retirement accounts shrink and real property values plunge, it may seem like an odd time to think about estate planning. However, the current downturn in residential real estate presents some interesting opportunities in the estate planning arena.

A "Qualified Personal Residence Trust" ("QPRT") is an estate "freezing" technique that can significantly reduce the estate and gift tax consequences of the transfer of your family home (and one vacation home). The QPRT freezes your home at its current value, thereby excluding future appreciation from your taxable estate. The catch? You have to outlive the term of the QPRT.

To create a QPRT, you as the "Grantor" irrevocably transfer your personal residence into the trust. You retain the right to use the residence for the term of the trust. At the expiration of the term, the trust passes to the beneficiaries you have named in the trust document. The transfer counts as a completed gift to these remainder beneficiaries for gift tax purposes, and you will be responsible for any gift taxes resulting from the gift. The good news is that this taxable gift is likely to be far less than the market value of the property - the gift tax value reflects a discount for your retained interest, based on your age and the term of the trust. Unless you already have made more than \$1 million in lifetime gifts, you can apply a portion of your unified credit to "pay" the tax. Because real property values are currently depressed, there is an opportunity now to transfer wealth to your heirs at a significant discount relative to a short time ago.

Example: You're sixty-five (65) and in good health. You have one child, and you own your home, debt free. The current market value of the house is \$1,000,000. If you put your house in a QPRT with a 10 year term, naming your child as the

- Business Litigation and Dispute Resolution

- Corporate and Securities

- Estate Planning and Trust Litigation

- Family Law

- Intellectual Property, Advertising & Promotions

- Internet and New Media

- Labor & Employment

- Real Estate

remainder beneficiary, the gift tax value of the remainder interest in the house will be about \$534,000 (reflecting a discount for your retained interest). Even if the house does not appreciate in value during the 10 year term, your potential estate tax savings (assuming an effective estate tax rate of 46%) is about \$214,000. If the house does appreciate, the tax savings will be even greater.

Remember, for the QPRT to work, you must outlive the term of the trust. If you want to continue living in the residence beyond the length of the term, you can lease the residence back from the beneficiaries - providing yet another opportunity to pass your wealth along by means of rental payments.

For more information about QPRTs and other estate planning tools, contact [Terence Nunan](#) or [Emily Nelson](#) of the Estate Planning and Trust Litigation Department at Rutter Hobbs & Davidoff Incorporated.

About [Rutter Hobbs & Davidoff Incorporated](#)

Rutter Hobbs & Davidoff's experienced attorneys represent middle market companies, early stage entities, large corporations and individuals in all facets of the law. From negotiation of critical agreements to the trials of business disputes, our clients receive thoughtful, focused legal counsel from senior attorneys for reasonable fees. RHD recently was named one of the "[Best Places to Work in Los Angeles](#)" by the Los Angeles Business Journal.



[>>Visit our new website](#)