MOORE STEPHENS TILLER LLC
CERTIFIED PUBLIC ACCOUNTANTS AND BUSINESS ADVISORS

No time like the present

With favorable estate tax and real estate environments, use a QPRT to give away your home

A qualified personal residence trust (QPRT) can be an effective tool for transferring a home to your children or other family members at the lowest possible tax cost — while continuing to live in it. And given the current favorable estate tax environment and depressed real estate market, now may be the ideal time to establish one.

What are the benefits?

Taking advantage of a QPRT is relatively simple: You transfer your primary residence or vacation home to an irrevocable trust that meets certain requirements, retaining the right to live in the home for a term of years. At the end of the term, ownership of the home is transferred to your beneficiaries (although it's possible to extend your stay in the home by paying them fair market rent).

This strategy can save gift and estate taxes in two ways. First, when you contribute property to a properly structured QPRT, you remove it from your taxable estate and freeze its value for tax purposes. From that point forward, any appreciation in value is sheltered from gift and estate taxes.

Second, although your contribution is a taxable gift to your beneficiaries, its value for gift tax purposes is a fraction of the home's fair market value. Why? Because, under IRS rules, gift tax is imposed on the value of your beneficiaries' remainder interest in the home. Their interest is computed by taking the home's fair market value and subtracting the present value (using IRS tables) of your retained interest in the home — that is, your right to continue living there during the trust term.

The longer the trust term, the greater the value of your retained interest and, therefore, the lower the value of your gift. But keep in mind that, to enjoy a QPRT's tax benefits, you must survive the trust term. Otherwise, the home's full fair market value as of your date of death will be pulled back into your taxable estate.

Why now?

Several factors have created a favorable environment for QPRTs:

High exemption amount. In 2013, the federal gift and estate tax exemption amount is a record-high $5.25 million. Depending on the value of your home and your available exemption, you may be able to transfer your home to a QPRT tax-free.

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Depressed home values. The real estate crisis caused a dramatic drop in housing prices during the last few years. Transferring a home to a QPRT now, while its value is depressed, allows you to minimize the gift tax cost while maximizing the potential for tax-free appreciation.

Valuation discounts. Married couples may be able to enjoy additional tax savings by taking advantage of valuation discounts available for fractional interests in real estate. One strategy is for spouses to own their home as tenants-in-common and then to contribute their undivided 50% interests in the home to separate QPRTs.

In a 2010 case, *Ludwick v. Commissioner*, the U.S. Tax Court allowed a couple using this approach to claim a 17% valuation discount for gift tax purposes. Be aware that some lawmakers want to limit valuation discounts for intrafamily gifts, so it's uncertain how long this strategy will remain available.

Should you act?

If the estate tax or real estate environment changes, the potential benefits of this strategy may diminish. Your tax advisor can help you determine whether a QPRT is beneficial for your particular set of circumstances.