WHAT IS A QUALIFIED PERSONAL RESIDENCE TRUST IN CONNECTICUT?

A Qualified Personal Residence Trust Is a Legal Device that Can Be Utilized to Provide Estate Tax Efficiency

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A qualified personal residence trust is a legal device that can be utilized to provide estate tax efficiency. Before we get into the details, we will explain the estate tax parameters so that you can determine whether or not your estate will be exposed to taxation.

FEDERAL ESTATE TAX

There is an estate tax on the federal level. In 2014 the federal estate tax exclusion stands at $5.34 million. Back in 2011, the estate tax exclusion was set at $5 million. Since then, it has been adjusted annually to account for inflation. Next year, another inflation adjustment may be applied, so you could see a figure that is a bit larger in 2015.

The maximum rate of the federal estate tax is 40 percent.

If the estate that you will be passing along to your heirs does not exceed the amount of the federal estate tax exclusion, the asset transfers will not be subject to the federal estate tax. On the other hand, if you are transferring more than $5.34 million, you must take steps to preserve your wealth.

It should be noted that there is an unlimited marital deduction. Under the tax code, you may bequeath unlimited assets to your spouse free of the estate tax. You would not have to use any of your $5.34 million exclusion to leave money to your spouse tax-free.

CONNECTICUT STATE ESTATE TAX

Our firm practices in the state of Connecticut. Here in Connecticut we have an estate tax on the state level. The state-level estate tax exclusion is much lower than the federal exclusion. The Connecticut estate tax exclusion is just $2 million in 2014. The maximum rate is 12 percent.

There is also an unlimited marital deduction on the state level.

GIFT TAXES

To prevent people from giving gifts while they are living to avoid the federal estate tax, there is also a federal gift tax. It is unified with the estate tax, so the $5.34 million exclusion is a unified exclusion applying to taxable gifts that you give coupled with the value of your estate.

In Connecticut, we have the same arrangement on the state level. We have a gift tax, and the $2 million exclusion is a unified exclusion.

REDUCING THE TAXABLE VALUE OF YOUR HOME

Now that we have provided the necessary background, we can explain qualified personal residence trusts in detail.

A qualified personal residence trust is an irrevocable trust. This means that you cannot rescind or revoke the trust once you create it, and generally speaking you cannot change the terms.

To implement this strategy, you create a trust agreement. In the agreement you are going to name a trustee to administer the trust, and you can name a successor trustee. When you are creating the agreement you decide on a retained income period.

This is an interim during which you will remain in the home as usual. You do not have to move out of the home, and you don't have to pay rent during this retained income period.

You also name a beneficiary or beneficiaries who will assume ownership of the property after the retained income period has expired.

Once you convey the home into the trust, you have removed it from your estate for estate tax purposes, and that is part of the appeal.

The act of funding the trust with property that will eventually be transferred to a beneficiary is considered to be an act of taxable gift giving. However, the taxable value of the gift is going to be considerably lower than the actual fair market value of the property.

The value of the gift is a fraction of its true market value because of the retained income period. Suppose you wanted to sell the home on the open market with the stipulation that you will remain in the home for 20 years. Nobody is going to pay fair market value under those circumstances. This is why the taxable value of the gift will be well below the fair market value of the home.

You have to be conservative when you are deciding on the retained income period. The duration of the period will impact the taxable value of the home, so on the one hand, longer is better.

However, if you die before the period expires, the strategy fails, and the home becomes part of your taxable estate.

CONCLUSION

A qualified personal residence trust can be an effective way to mitigate your estate tax exposure.

Because you continue to live in the home after you create the trust, the value of the gift that you are giving to the beneficiary is reduced. Plus, you are removing the home from your taxable estate.

If you would like to learn more about qualified personal residence trusts, schedule a consultation with a licensed estate planning attorney.

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About the Author

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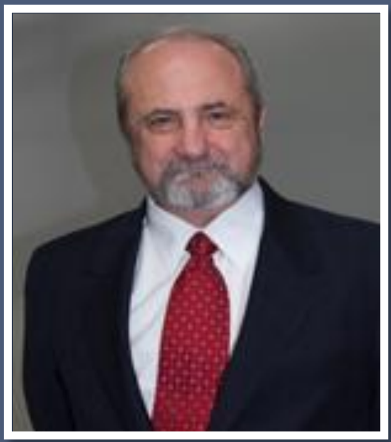
Barry D. Horowitz is a founding partner in the law firm of Nirenstein, Horowitz & Associates, P.C. He received his diploma from the Loomis Chaffee School and his Bachelor of Arts from Bennington College, where he dual majored in philosophy and music.



Mr. Horowitz was awarded his Juris Doctor degree with honors from the University of Connecticut School of Law. While attending law school, Mr. Horowitz received the American Jurisprudence Award in Legal Ethics and the Nathan Burkan Award.

After graduation from law school, Mr. Horowitz continued his legal education at New York University School of Law where he received a Post Doctorate Law Degree in Taxation. He has also recently received a national achievement award.

Mr. Horowitz is admitted to practice before all the state courts in the State of Connecticut and the United States District Court. He is a member of the Hartford County Bar Association, a charter member of the American Academy of Estate Planning Attorneys, and has recently received the American Academy Award. Mr. Horowitz is also an active member of the Connecticut Bar Association where he is a member of the Elder Law Section, the Estate Planning and Probate Section, and the Professional Ethics Committee. Mr. Horowitz practices exclusively in the area of Estate Planning where he has earned a reputation as a dynamic and entertaining speaker. He also has recently published a book entitled "Guiding Those Left Behind in Connecticut."

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