



Welcome to *Trust Connection*, our monthly newsletter highlighting Trust news and information. Each month we will feature timely articles of interest.

About Us

At Halliday Private Trust, it is our mission to assist our clients in the process of providing solutions, specifically through a wide range of financial advice.

Since 1982, we have utilized a full spectrum of financial services to help our clients navigate every major hurdle in their financial lives. Because we are an independent financial services firm, we utilize an open architecture approach to locating the most suitable investment options for our clients.

Our role is to help clients make smart decisions about their money. We understand that each client has unique needs and requires personalized solutions based on their goals, objectives and concerns.

Single QTIP: The Best Solution for Portability Flexibility?

In a field that does not often see substantial change, estate planning has recently experienced a lot. With estate tax rates falling from 55 percent to 40 percent, the estate tax rate is lower than the maximum income tax rate in some states. With exemptions climbing almost ten-fold, less than two-tenths of one percent of the population is subject to the tax. Federal tax law and most states now recognize same-sex marriage, which increases the number of couples who can benefit from the marital deduction. And now there is the new option of "portability," which is intended to simplify estate planning, but for successful, married couples, it can actually become more complex. Portability allows choices with tradeoffs between simplicity and getting an additional step-up in basis, contrasted with the potential to have a reduction in estate tax exemption in certain second-marriage scenarios and only half of the generation-skipping transfer tax exemption available. What to do?

Several solutions have been used to address this conundrum in estate planning for financially successful married couples. One is to stay the course and use the traditional formulas to optimize use of tax exemptions to ward off the unknown future. Others, confident of the permanence of current law, have fully embraced portability and leave everything to the surviving spouse directly, providing simplicity and a second step-up in basis, as income tax planning has gained new luster. And the compromise solution was to set up the traditional plan, but not fund it properly, leaving it up to the surviving spouse to back into the plan as desired by disclaiming some portion of the inherited wealth. In fact, the best solution may be none of these, rather a plan that is simple on the surface and involves complex decision making to tailor the plan after the death of the first spouse. Enter the Single QTIP trust.

Qualified Terminable Interest Property (QTIP) is a special set of marital deduction rules devised in 1981 when Congress enacted the unlimited marital deduction. The problem it was designed to solve was the ability to control the ultimate disposition of assets, after the surviving spouse's death, in accordance with the first spouse's wishes. Think "Brady Bunch" - a marriage of a couple with children from prior marriages. Yet, this post mortem election was quickly adopted by sophisticated estate planning professionals for its ability to delay the marital deduction decision. Because Congress drafted this rule into the Internal Revenue Code, it is not a loophole, just a rule that estate planners have seized upon to create more flexibility in planning. Its use over the years has, in fact, created greater clarification to uses of the QTIP election and its ability to allow us to make better decisions later.

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A LOCAL TRUST SOLUTION

Call us today at (800) 786-1598 to learn more about working with Halliday Private Trust.

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One of the biggest problems in estate planning is that neither the client nor the planning professional knows what the client will be worth at death, what type of assets they will hold, what the tax laws will be, and the condition of the surviving spouse. Therefore, the longer the estate planning decision can be delayed, the better. Of course, not knowing when one will die creates the need to have an up-to-date estate plan in place. The Single QTIP trust enables both of these issues to be addressed.

Stated simply, the technique involves leaving everything one owns in a single trust, eligible for the QTIP election. Further, that trust will contain the power in the trustee to split the trust into multiple trusts. Because QTIP trusts can either qualify for the marital deduction or not based on the executor's election, this enables the trustee to, in effect, construct the most appropriate estate plan structure after the death of the first spouse. Understand that this does not have anything to do with who benefits from the trust; that is always determined by the client. What it allows is for the trustee to reflect current federal estate tax law, federal generation-skipping tax law, state estate tax law (if applicable), state and federal income tax law, the nature of the assets, the value of the estate, even the current legal climate. These decisions are obviously best made with the advice of an experienced professional.

The estate tax decisions will be based on federal estate tax law - the decision to elect the marital deduction or not. There are three scenarios that may affect the structure of the trust as well as the exemptions and allocations. Your advisor team can help navigate the complexity of the decisions and the impact they have on your estate plan.

For tax efficiency purposes, as the client you can also design into the plan income payment options that will provide more annual flexibility on the taxation of trust income. In some cases the administration of the resulting irrevocable trusts may be moved to a state with no income tax, further benefitting the plan.

As you can see, the Single QTIP trust provides a broad set of options, which enable your advisor and estate planning professionals to: 1) design into the plan the appropriate language, 2) fully reflect your own wishes for benefitting your loved ones, and 3) help you choose an experienced, professional trustee with the knowledge to carry out the plan and make the appropriate splits and elections to make your plan a reality. If you have not reviewed your estate plan since 2013 with your legal advisor, do so now, and ask about the opportunities that a Single QTIP may provide to your family.

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