

# QTIP Trust

## *How It Works*

The Qualified Terminable Interest Property Trust, or QTIP Trust, is a type of Marital Trust which provides a way for the first spouse to die to use the unlimited marital deduction, yet still control the ultimate disposition of the estate assets after the death of the second spouse. The major characteristics of a QTIP Trust are:

- A QTIP Trust is usually established in the will or revocable living trust to take advantage of the unlimited marital deduction.
- The surviving spouse must be a U.S. citizen.
- At the first death, property is placed in a marital trust in such a way that the property is subject to estate taxation at the death of the surviving spouse.
- All trust income must be paid to the surviving spouse, annually or more often.
- Principal can only be used to provide for the surviving spouse during his or her life.
- If specified in the QTIP trust, the surviving spouse may be given a limited power of appointment over the principal of the trust to distribute the proceeds among a designated class of beneficiaries at the surviving spouse's death.
- The property in trust passing to the surviving spouse at the first death must be included within the taxable estate at the second death, even though the trust controls the distribution of the property.

## **Benefits of a QTIP Trust**

- Probate and administrative costs may be reduced.
- Provides control by the first spouse to die over the final distribution of the QTIP Trust, even if the surviving spouse has children from a prior marriage or has remarried.
- Protects against possible spendthrift habits of the surviving spouse, while providing income and possibly principal to provide for the spouse's needs.
- A QTIP can be drafted to place trust assets beyond the reach of the surviving spouse's creditors.
- The trust allows management of the assets by a trustee designated by the grantor (the first to die). Often this provides the grantor peace of mind knowing that the spouse will be provided professional management of the assets.