

Estate Planning: A Quick Overview of QTIP Trust vs. Marital Trust

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Estate planning furnishes several benefits for those individuals with considerable wealth and assets to their name. When done well, it can provide a great opportunity for couples to lower or even get rid of their estate's tax burden. Further, as the goal is often to continue to provide for their loved ones and help others in the future in a financially significant and effective way, estate planning offers peace of mind that their family members and relatives, close friends, and chosen charities benefit from this economic gift for years to come. Arguably, the two most popular of these trusts are the Qualified Terminable Interest Property (often abbreviated as QTIP) and the Marital Trust, both of which maintain the donor's estate tax exemption so that it can be brought into service by one or more of the beneficiaries of the trust itself. This allows for the total tax burden to be heavily mitigated by those employing it at a later date.

The Difference Between QTIP and Marital Trusts

Though both trusts are technically credit shelters, [Beyond Counsel](#) points out that there are significant yet often subtle differences between QTIP and marital gift trusts.

For starters, QTIP Trusts are instituted when a spouse dies. All the assets of the deceased spouse become usable by the surviving spouse; once they are also deceased, the original beneficiaries of the assets — which would be named by the initial benefactor himself or herself — will take on whatever assets remain held by the trust.

Importantly, the surviving spouse is only eligible to make use of the trust's profits when in their control, while the originally intended beneficiaries are able to utilize the principle investments as well. Moreover, because estate taxes are postponed until the death of the surviving spouse, they are able to employ the assets as necessary without the burden of the eventual recipients of the trust having to pay taxes on it as soon as the initial spouse dies.

QTIPs have the secondary, but no less important, benefit of protecting assets from a surviving spouse that may not be quite as fiscally responsible, as well as securing that the finances of the trust remain intact for their children and the children of any previous marriages. As one might expect, QTIPs can also help alleviate any worry or fear a spouse may have about an unscrupulous significant other attempting to exploit their surviving spouse and swindle him or her out of the assets of the trust.

With a QTIP, all of these concerns can be allayed with the certainty that assets placed with this particular kind of credit shelter trust are safe from harm and/or less frugal financial decisions.

A marital trust, on the other hand, is similar in that some of the assets are appropriated for the surviving spouse while others remain for the ultimate beneficiaries. The difference is in how the assets are apportioned. Upon the death of the benefactor, the marital estate is divided, leaving the total assets allocated between two separate shares. The first set of shares are put into a trust fund; the second set is given immediately to the remaining spouse. In neither case are estate taxes required to be paid at this point. As in a QTIP trust, the surviving spouse is able to collect payment from the assets, with one very significant distinction: depending on the agreement made, a surviving spouse may also be able to utilize the principal from the trust fund, as well as decide on ultimate beneficiaries. While a QTIP does offer more overall direction of the funds, a marital gift trust has the flexibility of not mandating that the surviving spouse take annual allotments. Instead, they are able to leave principal in the trust if so desired, which may continue to increase the total assets through interest over time.

It is necessary now to point out that these credit shelter trusts are only allowed for individuals who are both spouses *and* US citizens, though there are other types of trusts available in circumstances involving non-citizens and domestic partnerships.

As an attorney, one can provide a remarkable amount of financial and emotional stability to a couple as they plan for the safe and secure distribution of their assets to their spouse and chosen beneficiaries after their death. Both QTIP trusts and marital trusts furnish the ability to make informed decisions and have peace of mind when it comes to apportioning and protecting their estate.

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