

LEASE AGREEMENT FOR QUALIFIED PERSONAL RESIDENCE TRUST (QPRT)

(Permits Grantor to lease the residence that Grantor has transferred to a qualified personal residence trust for the benefit of Grantor's children after Grantor's interest in the trust has terminated.)

HIGHLIGHTS OF THE PLAN

OVERVIEW

A qualified personal residence trust permits a Grantor to continue living in his or her residence for a period of years, while transferring the residence to the next generation at a discount for estate and gift tax purposes provided the Grantor lives for the full term of his or her interest in the trust. If the Grantor dies during the term of his or her interest in the trust, the full value of the residence will be included in the Grantor's estate for federal estate tax purposes. Life insurance in a life insurance trust should generally be purchased to protect against any estate taxes that might be due if the residence is included in the Grantor's estate.

THE LEASE AGREEMENT

The Lease Agreement solves the problem of when the Grantor wants to continue living in the residence after the Grantor's interest in the qualified personal residence trust has terminated. The agreement permits the Grantor and remainder beneficiaries (in this case, the trustee for the remainder beneficiaries) to agree that the Grantor will have the option to lease the residence from the remainder beneficiaries (trustee) after the Grantor's interest in the trust terminates. Such agreement must be based upon full, fair market rental value as determined by an independent source.

The Lease Agreement provides for independent appraisal of the property and its fair rental value and specifies the terms upon which the residence may be leased. This lease technique is ruled upon favorably by the IRS in Private Letter Rulings 9425028, 9714025, and 9829002. Please note that Treasury Regulation Section 25.2702-5(c)(9), which applies to trusts created after May 16, 1996, requires the governing document to prohibit the Grantor, the Grantor's spouse, or any entity controlled by the Grantor from purchasing the residence from the trust during the period in which the Grantor has a qualified interest in the trust or the trust is a grantor trust.