

QTIP vs. QDOT

PERTINENT INFORMATION

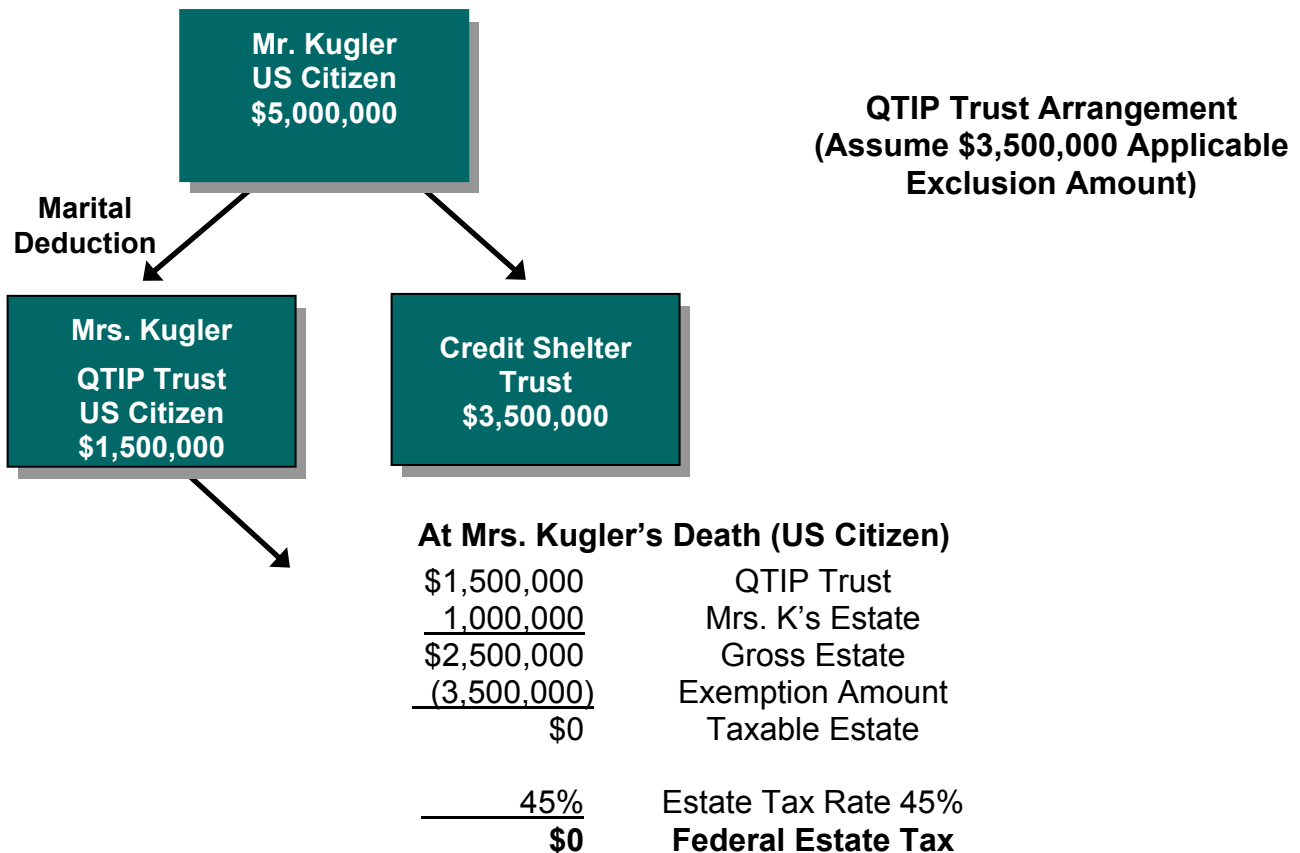
- ❑ Mr. Kugler is a US citizen with a \$5,000,000 estate.
- ❑ Mrs. Kugler is not a US citizen (resident alien) and she has a \$1,000,000 estate.
- ❑ Mr. Kugler's will provides a maximum bequest to a credit shelter trust with the residue of the estate outright to Mrs. Kugler.

GOALS AND OBJECTIVES

- ❑ Mr. Kugler has been informed that since Mrs. Kugler is not a US citizen, the outright bequest to her will not qualify for the estate tax marital deduction.
- ❑ Mr. Kugler wants to leave a marital bequest to Mrs. Kugler via a trust that qualifies for the estate tax marital deduction. At Mrs. Kugler's subsequent death Mr. K wants the trust principal to pass to their children.
- ❑ He also wants to minimize the estate tax at Mrs. Kugler's subsequent death.

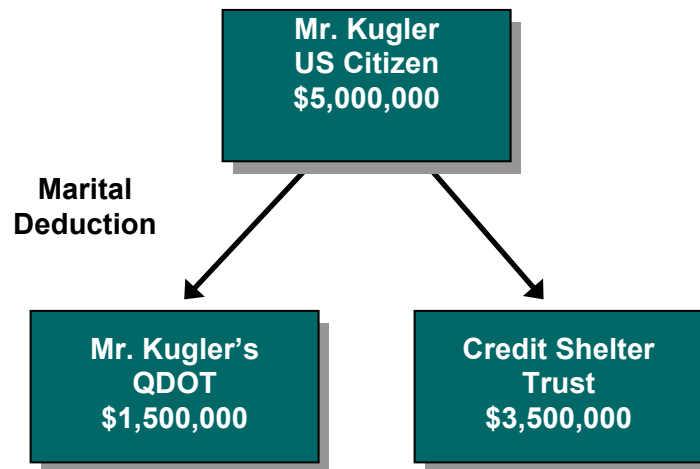
PROPOSED ARRANGEMENT

- ❑ **If Mrs. Kugler becomes a US citizen** Mr. Kugler should consider a Qualified Terminable Interest Property Trust (QTIP Trust).
- ❑ Note: The QTIP trust is only available if the surviving spouse is a US citizen.
- ❑ At Mrs. Kugler's subsequent death the QTIP trust is added to her estate for estate tax purposes.



- ❑ **If Mrs. Kugler does not intend to become a US citizen** then Mr. Kugler should consider a Qualified Domestic Trust (QDOT).
- ❑ At Mrs. Kugler’s subsequent death the estate tax on the value of the QDOT is calculated as though Mr. Kugler owned the QDOT principal when he died in the year 2008 (IRC Section 2056A(b)).
- ❑ The QDOT has some additional requirements which must be satisfied to allow the trust to qualify for the estate tax marital deduction.
- ❑ One requirement is that the trust must provide a guarantee that the non-citizen surviving spouse will not remove the trust principal from the trust, unless the US trustee the pays estate tax.

QDOT TRUST ARRANGEMENT



At Mrs. Kugler’s Death (Resident Alien)

Mr. Kugler’s Estate (US Citizen)

\$5,000,000	Gross Estate
<u>(3,500,000)</u>	Exemption Amount
1,500,000	Taxable Estate (QDOT)
45%	Estate Tax Rate
\$675,000	Federal Estate Tax

Mrs. Kugler’s Estate (Non-Citizen)

\$1,000,000	Mrs. K’s Estate
<u>(3,500,000)</u>	Exemption Amount
0	Taxable Estate
N/A	Estate Tax Rate
0	Federal Estate Tax

*Assume \$1,500,000 QDOT value has not increased or decreased.

RESULTS AND BENEFITS

- ❑ At Mrs. Kugler’s subsequent death the trust principal of the QTIP will be taxed to Mrs. Kugler's (US citizen) estate whereas the trust principal of the QDOT is taxed to Mr. Kugler's estate (US citizen).
- ❑ The subsequent estate tax will be lower under the QTIP arrangement because Mrs. Kugler's (non-citizen surviving spouse) estate is below the \$3,500,000 applicable exclusion amount for estate tax purposes.
- ❑ As a result, any remaining applicable exclusion amount would be available to reduce the estate tax.
- ❑ Also, under the QDOT arrangement any lifetime distributions of trust principal to Mrs. Kugler (non-citizen spouse) will be subject to gift tax (except for distributions on account of hardship). The gift tax will be calculated at Mr. Kugler's gift tax bracket which will be the same as his estate tax bracket.