

**By Matthew Crider, JD  
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A QTIP trust, or Qualified Terminable Interest Property trust, is a special type of A/B trust. Have I lost you yet?

Not to worry... keep reading!

Let's start at the beginning. An A/B trust is a marital trust system comprised of two trusts, an A trust and a B trust. The A trust is typically referred to as the marital trust, though sometimes it is a QTIP trust (just keep that in mind for now). The B trust is the trust that benefits the broader family.

Here is how it works:

1. A married couple adds the appropriate language to create A/B trusts to their wills or revocable living trusts.
2. Assets are divided so that they are owned in relatively even proportions between the spouses. The entire A/B plan falls apart if assets are owned jointly, since then the assets pass directly to surviving spouses without the tax benefits of the A/B system.
3. When one spouse dies, the entire tax-free portion of his or her estate is transferred to the B trust. This trust can be for the benefit of the surviving spouse, children, grandchildren, and just about anyone else. It is very flexible.
4. The taxable portion of the deceased spouse's estate is transferred into the A trust. This is a very strict trust that must benefit only the surviving spouse and no one else. By doing this, the law provides that taxes are deferred on the taxable portion until the surviving spouse passes away. When the surviving spouse dies, if his or estate is taxable—if it is greater than the available exemption—then the excess will be taxed at the applicable rate.

### **Where the QTIP Comes Into Play**

The QTIP comes into play at step 4 above. One can elect to make the A trust a QTIP trust.

Why would you want to do this?

Spouses can give unlimited gifts to one another tax-free, but the law is very strictly construed. It **MUST** be a gift only between spouses. The QTIP election is an exception to that rule. It allows for the creation of a trust that benefits only the surviving spouse during his or her life but then passes on to other beneficiaries like children or grandchildren.

So when might a QTIP election be wise? Well, how about in a blended family situation where both spouses have children from previous marriages? You want to make sure that your spouse is cared for after you die, but then you want the remaining interest in the trust to go to your children (or to whomever else you want) rather than just to your stepchildren.

QTIP elections are the primary reason for using A/B trusts at all, at least until 2013 when the estate tax laws are likely to change and the portability of the estate tax exemption could very well go away.

### **Let us guide you**

This is all very complicated stuff. There's no way to explain it all in the course of one short article, but then again . . . we don't need to, because we are here to meet with you in person, and we would very much like an opportunity to do that. Please call our offices and mention this article when scheduling an appointment.

### **About Matthew Crider, J.D.**

Matthew Crider formed [Crider Law PC](#) in 1999 so he could help individuals and business owners by providing creative solutions and be their trusted advisor and legal counselor. He serves his clients by listening closely to their goals, dreams and concerns and working with them to develop superior and comprehensive estate and asset protection plans. His estate planning practice focuses on preserving and growing wealth by providing comprehensive, highly personalized estate planning counsel to couples, families, individuals and businesses.

