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CLIENT MEMORANDUM
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The Family Limited Partnership (FLP) and the Qualified Personal Residence Trust (QPRT)

Two very advantageous estate planning techniques are the **Family Limited Partnership (FLP)** and the **Qualified Personal Residence Trust (QPRT)**.

1. A **Family Limited Partnership** effectively allows you to make gifts of assets, and the value of the gift may be discounted by as much as 40% from the "face value". For example, if a partnership holds $300,000 in assets, then a 10% interest in the partnership tentatively represents $30,000. But, that 10% interest can not be readily sold on the open market, and thus the "fair market value" is something less; if a 40% discount is applied, then the market value of that 10% interest is only $18,000. This allows you to make much larger gifts, and still stay within the estate tax exclusions/exemptions. For example, you are generally allowed to make gifts of $10,000 per donee per year within the annual gift tax exclusion; through the use of the FLP technique, you might effectively make a gift of, say, $15,000 per donee and still stay within the $10,000 annual exclusion. Or, you might make a gift of, say, $300,000, and use up only about $200,000 of your lifetime estate tax exemption, and so on for even larger gifts. The FLP technique is particularly attractive, in that you can make these gifts, and *still retain control* of the assets by your being the Managing Partner of the Partnership; your children could be given non-voting equity interests.

2. A **Qualified Personal Residence Trust**, somewhat similarly, allows you to give away your house at a discounted value. For example, let's say that the value of your house is $500,000; you could create a QPRT, and transfer the house into the Trust, and retain the right to use the house for, say, 12 years, and thereafter the house would belong to your children. Depending on your age and other factors, actuarial computations will be applied, and your retained right to use the home for those 12 years might be valued at $300,000. Accordingly, you will have made a gift of only $200,000, when transferring the house. Also, significantly, all future appreciation in the value of the house will have been removed from your estate. If you *were to not* make such a gift, and the house were to become worth $1M in 12 years, then it would be part of your taxable estate, and the estate tax thereon (at the rate of 55%) would be $550,000. By *having used* the QPRT, the house would be taxed in your estate at a value of only $200,000; the estate tax in that event would be only $110,000 (instead of $550,000 as mentioned above). It is necessary, in order for this technique to be effective, that you actually outlive the term of the Trust. You can also retain the right to rent the house,

from your children, after the 12 year term has expired. You can choose a term for the Trust of *any* number of years; the estate tax savings are relatively greater if the term is longer, but the plan works only if you in fact survive the term of the trust. (There is no penalty, however, even if you do not survive the term.)

These two techniques are particularly attractive under current law. The estate tax rate ranges from 37% to 55% and thus the use of these techniques could result in <u>very significant</u> estate tax savings to your family.

Please do not hesitate to give us a call if you should wish to further review these matters.