



Methods of Holding Title

The comparison below is provided for general reference purposes only. It should not be used to determine how you hold title. We strongly recommend that you seek professional counsel from an attorney and/or CPA to determine the legal and tax consequences of how title is vested.

	Community Property	Joint Tenancy	Tenancy In Common	Partnership Holding Title	Trust Holding Title	Community Property Right of Survivorship
Parties	Only Married Spouses	Any number of persons (can be Married Spouses)	Any number of persons (can be Married Spouses)	Only partners (any number)	Individuals, groups of persons, partnership or corporations, a living trust	Only Married Spouses
Division	Ownership and managerial interests are equal (except control of business is solely with managing spouse)	Ownership interest must be equal	Ownership can be divided into any number of interests equal or unequal	Ownership interest is in relation to interest in partnership	Ownership is a personal property interest and can be divided into any number of interests	Ownership and managerial interests are equal
Title	Title is in the "community". Each interest is separate but management is unified.	Sale or encumbrance by joint tenancy serves joint tenancy	Each co-owner has a separate legal title to his/her undivided interest	Title is in the "partnership"	Legal and equitable title is held by the trustee	Title is in the "community," management is unified
Possession	Both co-owners have equal management and control	Equal right of possession	Equal right of possession	Equal right of possession but only for partnership purposes	Right of possession as specified in the trust provisions	Both co-owners have equal management and control
Conveyance	Requires written consent of other spouse or actual conveyance by deed. Separate interest is divisible by will.	Title is held jointly. Conveyance by one co-owner without the others breaks the joint tenancy	Each co-owner's interest may be conveyed separately by its owner	Purchaser acquires interest that partnership owned <i>*subject to the terms of the Partnership Agreement</i>	Designated parties with the trust agreement authorize the trustee to convey property. Also a beneficiary's interest in the trust may be transferred. <i>"If allowed by the Trust Agreement"</i>	Right of survivorship may be terminated pursuant to the same procedures by which a joint tenancy may be severed
Purchaser's Status	Purchaser can only acquire whole title of community; cannot acquire a part of it	Purchaser will become a tenant in common with other co-owners in the property as to the purchaser's interest. Other owners may remain joint tenants	Purchaser will become a tenant in common with other co-owners in the property	Purchaser acquires interest that partnership owned <i>*subject to the terms of the Partnership Agreement</i>	A purchaser may obtain a beneficial interest by assignment or may obtain legal and equitable title from the trust	Purchaser can only acquire whole title of community; cannot acquire a part of it
Death	On co-owner's death 1/2 belongs to survivor in severalty. 1/2 goes by will to descendant's devisee or by succession to the survivor	On co-owner's death his/her interest ends and cannot be disposed of by will. Survivor owns the property by survivorship	On co-owner's death his/her interest passes by will to devisee or heirs. No survivorship right	On partner's death his/her partnership interest passes to the surviving partner pending liquidation of the partnership. Share of deceased partner then goes to his/her estate <i>*subject to the terms of the Partnership Agreement</i>	Successor beneficiaries may be named in the trust agreement, eliminating the need for probate	Upon the death of a spouse, his/her interest passes to the surviving spouse, without administration, subject to the same procedures as property held in joint tenancy
Successor's Status	If passing by will, tenancy in common between devisee and surviving spouse results	Last survivor owns property	Devisee or heirs become tenants in common	Heirs or devisee have rights in partnership interest but not specific property <i>*subject to the terms of the Partnership Agreement</i>	Defined by the trust agreement, generally the successor becomes the beneficiary and the trust continues	Surviving spouse owns property
Creditor's Rights	Property of community is liable for debts of either spouse which are made before or after marriage. Whole property may be sold on execution sale to satisfy creditor	Co-owner's interest may be sold on execution sale to satisfy creditor. Joint tenancy is broken, creditor becomes a tenant in common	Co-owner's interest may be sold on execution sale to satisfy his/her creditor. Creditor becomes a tenant in common	Partner's interest cannot be seized or sold separately by his/her personal creditor but his/her share of profits may be obtained by a personal creditor. Whole property may be sold on execution sale to satisfy partnership creditor	Creditor may seek an order for execution sale of the beneficial interest or may seek an order that the trust estate be liquidated and the proceeds distributed	Property of community is liable for debts of either which are made before or after marriage; whole property may be sold on execution sale to satisfy creditor
Presumption	Strong presumption that property acquired by Married Spouses is community	Must be expressly stated	Favored in doubtful cases except Married Spouse cases	Arise only by virtue of partnership status in property placed in partnership	A trust is expressly created by an executed trust agreement	Must be expressly stated

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