

METHODS OF HOLDING TITLE

	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY	COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP
Who can take title?	Any number of persons (can be husband and wife)	Any number of persons (can be husband and wife)	Only husband and wife	Only husband and wife
How is ownership divided?	Ownership can be divided into any number of interests, equal or unequal	Ownership interests must be equal	Ownership interests must be equal	Ownership interests must be equal
Who holds the title?	Each co-owner has a separate legal title to his undivided interest	Title to entire property is jointly held by the joint tenants	Title in the "community" (similar to title being in a partnership)	Title in the "community" (similar to title being in a partnership)
Who has possession?	Equal right of possession	Equal right of possession	Equal right of possession	Equal right of possession
How do owners convey their interest?	Each co-owner's interest may be conveyed separately by its owner	Conveyance by one co-owner without the other breaks the joint tenancy, and owners then become tenants in common	Both co-owners must join in conveyance of real property. Separate interests cannot be conveyed	Both co-owners must join in conveyance of real property. Separate interests cannot be conveyed
Purchaser's status	Purchaser becomes a tenant in common with the other co-owners	Purchaser becomes a tenant in common with the other co-owners	Purchaser can only acquire whole title of community; cannot acquire a part of it	Purchaser can only acquire whole title of community; cannot acquire a part of it
What happens in case of death?	On co-owner's death, his interest passes by will to his devisees* or heirs. No survivorship right	On co-owner's death, his interest ends and cannot be willed. Survivor owns the property by survivorship	On co-tenant's death, if decedent leaves a will, title goes to decedent's devisee.* If not, title goes to the survivor	Decedent's interest automatically passes to surviving spouse due to Right of Survivorship
What is the successor's status?	Devisees or heirs become tenants in common	Last survivor becomes sole owner	If passing by will, tenancy in common between devisee and survivor results	Surviving spouse becomes the sole owner
What is a creditor's interest?	Co-owner's interest may be sold on execution sale to satisfy his creditor. Creditor becomes a tenant in common	Co-owner's interest may be sold on execution sale to satisfy his creditor. Joint tenancy is broken. Creditor becomes tenant in common	Co-owner's interest cannot be seized and sold separately. The whole property may be sold to satisfy debts of either husband or wife	Co-owner's interest cannot be seized and sold separately. The whole property may be sold to satisfy debts of either husband or wife
What is the presumption of law?	Favored in doubtful cases except husband and wife (see community property)	Must be expressly stated and properly formed. Not favored	Strong presumption that property acquired by husband and wife is community	Strong presumption that property acquired by husband and wife is community
Is tax basis adjusted when first spouse dies?	Only to extent of deceased spouse's interest	Only as to half the property	Yes – entire property receives "stepped up" basis	Yes – entire property receives "stepped up" basis

* Note: a devisee is a person who receives real estate from another by will.

This is provided for general information only. The method of holding title (vesting) has certain significant legal and/or tax consequences and you are encouraged to obtain advice from an attorney or tax consultant or another qualified professional in this matter.

