

CONCURRENT CO-OWNERSHIP INTEREST

Disclaimer: The comparisons shown below are provided for informational purposes only. This chart should **NOT** be used to determine how you acquire your ownership in the property. It is strongly recommended that you seek professional advice from an attorney and/or your tax advisor to determine the legal and tax consequences of how your title should be vested.

	Community Property	Community Property w/Right Of Survivorship	Joint Tenancy	Tenancy In Common	Partnerships	Trust Arrangements	Community Property Trusts
PARTIES	Only husband & wife	Only Husband & Wife. Both should sign the acquisition Deed to accept this special form of vesting	Any number of persons. Can be husband & wife alone-or with others-no corporations-no partnerships	Any number of persons and/or corporations & partnerships	Any number of persons and/or corporations & partnerships MUST be at least two.	Any individual, group, partnership or corporations. Other special requirements.	Only husband & wife
DIVISION OF INTEREST	Ownership & management of property is equal.	Ownership & Management of property is equal.	Interests are equal and undivided. Yet each person controls their own interest.	Ownership can be divided into any number of interests equal or unequal.	Each partner's share is personal property in partnership entity.	Ownership is a personal property interest & can be divided into any number of interests	Property retains its character of community property.
TITLE	Title is in the community. Each interest is separate but management is unified.	Title is in the Community subject to special survivorship right.	Ownerships is joint. Sale by one severs tenancy as to others.	Each co-owner has a separate legal title to his/her their undivided interest.	Ownership is by partnership entity only.	Title is held by trustee(s) pursuant to the trust agreement.	Title is held by trustee(s) pursuant to the trust agreement.
POSSESSION	Both co-owners have equal management & control	Both co-owners have equal management and control.	Equal right of possession.	Equal right of possession	Possession by partnership by managing partner(s).	Depends on provisions in trust agreement.	Depends on provisions of trust agreement.
CONVEYANCE	Requires <u>written</u> consent of other spouse-or actual conveyance by deed. Separate interest is devisable by will.	Require Both spouses to join for valid, conveyance except for security for attorney's fees. However the estate may be severed as in joint tenancy by one spouse conveying to themselves.	Conveyance by one owner severs the joint tenancy-but only as to that owner's interest.	Each co-owner's interest may be conveyed separately by its owner.	Conveyance MUST be by designated general partners. All limited partners need to consent if sale is 100% of assets.	Designated parties in the trust instrument authorize the trustee to convey property. Also, a beneficiary's interest may be sold separately(as personal property) unless restricted.	By the trustee pursuant to the powers contained in the trust instrument.
PURCHASER'S STATUS	Purchaser can only acquire entire 100% of title of community. Both spouses must consent or convey. Cannot be a co-owner with others' spouse.	Purchaser can only acquire 100% of the title. Both spouses must convey. Cannot be a co-owner with other spouse.	Purchaser will become a tenant in common with the 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 the other co-owners in the property.	Purchaser acquires interest that partnership owned.	Purchaser acquires interest held by the trustee. Beneficiary's interest may be conveyed separately (as personal property) unless restricted.	Purchaser acquires the interest held by the trustee.

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	Community Property	Community Property W/Right Of Survivorship	Joint Tenancy	Tenancy In Common	Partnerships	Trust Arrangements	Community Property Trusts
EFFECT OF DEATH	On the death of the first spouse half interest belongs to the surviving spouse. Other half interest is devisable by will, or passes by succession under Probate Statutes.	On the death of the first spouse the undivided half interest passes to the surviving spouse, just the same as joint tenancy no separate interest is devisable by will.			Partner’s share in partnership is devisable by will or passes by succession under Probate Statutes. May cause dissolution of partnership dependent on terms of partnership agreement.	Depends on terms of trust instrument. Death of trustor may terminate or convert trust to other arrangements. Successor beneficiaries may be named in the trust instrument.	Trust instrument may provide for distribution on death of first spouse. Spouse’s half interest may be devisable by will. Surviving spouse may elect to have their interest put under testamentary trust. Seek advice of counsel.
SUCCESSOR’S STATUS	If first spouse’s interest is devised by will or passes by succession, remaining spouse and devisees or heirs hold title as tenants in common.	Due to survivorship right. The surviving spouse owns 100% of the title.	Unless joint tenancy is broken, last surviving joint tenant owns entire property interest, which is now devisable by will.	Heirs or devisees become tenants in common with other owners.	Heirs or devisee have rights in partnership interest but not in specific property.	Depends on terms of trust instrument. Trust may terminate or other trust arrangements may be created.	Distribution depends on the terms of the trust instrument.
CREDITOR’S RIGHTS	Property of the community is liable for debts of either spouse made before or during marriage. Entire property may be sold at execution sale to satisfy debt of either spouse.	Property of the community is liable for debts of either spouse made before or during marriage. Entire property may be sold at execution sale to satisfy debt of either spouse.	Each owner’s interest is subject to execution sale to satisfy debt. Joint tenancy is broken. Buyer at sale (usually creditor) becomes tenant in common with other owners.	Each owner’s interest is subject to execution sale. Buyer at sale (usually creditor) becomes tenant in common with other owners.	Partnership real property only subject to execution sale by partnership creditor. If debt of individual partner, only that partner’s share (personal property) is subject to execution sale.	Creditor needs to obtain a final court order for any execution sale of the beneficial interest-or an order to have specific trust property to be sold to satisfy the debt.	Creditor needs to obtain final court order for execution sale to satisfy the debts of either or both spouses.
PRESUMPTIONS	Strong presumption that any property acquired by either husband or wife during marriage is community property.	Property is specifically stated in the deed to be community property with right of survivorship.	<u>MUST</u> be expressly stated that property acquired as joint tenancy	When conveyance is unclear, tenancy in common is presumed, unless community property presumption applies.	Should be clear from conveyance that grantees have partnership status. If not, could be found to be tenants in common.	Trust arrangement is ONLY created by written instrument. Conveyance MUST be to trustee of the trust. The trust itself is NOT a legal entity capable of holding title.	Property is still presumed to be community property. Status may change upon death, dissolution of marriage or revocation of the trust.