

JOINT OWNERSHIP IN NEVADA

Although Joint Ownership Can be Beneficial, there are Some Issues that Should Be Considered Before Deciding to Take On the Responsibilities of Joint Ownership



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Joint ownership in property can be created in one of three forms: with rights of survivorship, as community property, or as tenants in common. The type of ownership you have in certain property will determine how that property is transferred at your death.

TENANCY IN COMMON

If property is owned by two or more people as tenants in common, each owner holds a percentage of ownership interest in that property. The percentages are often determined by the amount each owner contributes to the purchase of the property so the percentage does not have to be equal.

Holding property as "tenants in common" is another way that two or more people can own real estate together.

Unlike joint tenants, tenants in common can hold property in unequal

shares. And each of you can leave your interest to beneficiaries of your choosing--it won't automatically go to the surviving co-owners. In some states, two unmarried people are presumed to own property as tenants in common unless they've agreed otherwise in writing.



JOINT TENANCY WITH RIGHTS OF SURVIVORSHIP

Joint tenants with rights of survivorship, frequently abbreviated on account statements as "JTWROS," means that if there are two or more owners of the asset and one owner dies, then the surviving owner or owners will continue to own the asset and the estate and heirs at law of the deceased owner will



receive nothing. All that the surviving owners will need to do to remove the deceased owner's name from the asset is to show a death certificate or record an affidavit which indicates that one of the joint tenants has died.

ADVANTAGES OF JOINT TENANCY

There are both pros and cons associated with joint tenancy ownership. One benefit of a joint tenancy is that you have a "right of survivorship," which means when the other joint tenants dies, the survivor(s) automatically receive that person's share of the property. Joint tenancy also allows for various tax benefits, such as exemption from state gift tax requirements. If the property is being rented by someone, joint tenants are entitled to proportionate shares of the rent collected. The same is true for any other profits earned from the property like, for example, commercial profit or revenue from natural resources (i.e. oil and gas). Because the property passes to joint owners automatically, probate can be avoided, which is another benefit.

DISADVANTAGES OF JOINT TENANCY

One disadvantage of joint tenancy is that there is a higher level of responsibility associated with this type of ownership. Joint tenants are required to pay their proportionate share of taxes, mortgage payments and all other fees or expenses associated with the property. Similarly, joint owners are liable for their share of any necessary repairs or maintenance required on the property. Finally, because



the property is transferred to the remaining joint tenants upon one owner's death, that property interest cannot be passed down to surviving relatives as an inheritance.

It may be that some of these "disadvantages" actually work for you. So, if you are considering this type of

ownership, discuss your options with an estate planning attorney to determine what best fits your needs.

DISADVANTAGES OF JOINT OWNERSHIP IN GENERAL

Although joint ownership can be beneficial, there are some issues that should be considered before deciding to take on the responsibilities of joint ownership. One potential problem can arise when your co-owner incurs debts, gets sued or files for bankruptcy. If this happens, the jointly owned property can become liable for those debts as well.

Joint ownership means that you will no longer be the sole decision maker regarding what happens to that particular property. The consent of your co-owner is required before taking actions relating to that property. For instance, all owners of joint property must sign the deed or mortgage for these legal documents to be valid.



Another drawback of joint ownership is the fact that one owner may decide to sell or transfer their interest in the property. You may not have any input in determining to whom the property will be sold. You can then end up with a joint owner whom you know nothing about.

COMMUNITY PROPERTY

Community property is a special type of joint ownership currently recognized in only eight states: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington. These states differ in some ways, but generally all property that is acquired during the marriage is considered marital property, regardless of which spouse owns the property or how the property is titled, with the following few exceptions:

- Property that was owned by either spouse prior to the marriage
- An inheritance received by the husband or wife (either before or after the marriage)
- A gift received by the husband or wife from a third party (your mother gave you her diamond ring)
- Payment received for the pain and suffering portion in a personal injury judgment

When a spouse dies, what happens to community property will depend on whether or not the couple had an estate plan. If there is no plan, then the intestacy laws in Nevada will dictate where the community property will go. If there is an estate plan, then the terms of the estate plan will control.

About the Author



Gerald M. Dorn

Gerald Dorn is a shareholder and has been a partner at Anderson, Dorn & Rader, Ltd. Since 1998. Mr. Dorn has extensive experience serving wealthy families and business owners in the development of estate, tax and asset protection planning strategies. He made the decision to focus his practice in the area of estate planning after witnessing the personal grief and financial loss suffered by several of his clients as a result of poor planning. These experiences motivated him to dedicate his professional life to assisting his clients to preserve their life's work for their heirs and to create a lasting legacy for those they love. Mr. Dorn is able to accomplish his mission through the use of a vast number of estate planning tools, both basic and advanced, for all of his clients at Anderson Dorn & Rader, Ltd.

Just out of law school, Mr. Dorn helped to found Harris & Dorn, LLP., a private firm in San Diego that concentrated on family law, estate planning and probate cases. Mr. Dorn relocated the Reno area when he was offered a position as general counsel to a national estate planning company, drafting documents and teaching continuing legal education classes to attorneys, financial planners and accountants. Mr. Dorn is a frequent author and lecturer on such topics as Revocable Living Trusts, Family Limited Partnerships and Family Limited Liability Companies, Irrevocable Trusts, Tax Planning with Life Insurance, Charitable Remainder Trusts, Charitable Lead Trusts, Private Foundations, Qualified Personal Residence Trusts, Dynasty Trusts, Sales to Defective Grantor Trusts, Estate and Tax Planning for IRAs and Qualified Plans, Trust And Estate Administration and Asset Protection. He is a member of WealthCounsel, LLC, WealthCounsel Advisors Forum, InKnowVision, LLC, the State Bar of California's Estate Planning, Trust and Probate Law Section, the American Bar Association's Real Property, Probate and Trust Law Section and the Washoe County Bar Association.

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