

COMMON WAYS TO HOLD TITLE

HOW YOU TAKE TITLE - ADVANTAGES AND LIMITATIONS:

Title to real property in California may be held by individuals, either in Sole Ownership or in Co-Ownership. Co-Ownership of real property occurs when title is held by two or more persons. There are several variations as to how title may be held in each type of ownership. The following brief summaries reference seven of the more common examples of Sole Ownership and Co-Ownership.

SOLE OWNERSHIP

- A man or woman who is not married. Example: John Doe, a single man.
- An Unmarried Man/Woman:
A man or woman, who having been married, is legally divorced. Example: John Doe, an unmarried man.
- A Married Man/Woman, as His/Her Sole and Separate Property:
When a married man or woman wishes to acquire title as their sole and separate property, the spouse must consent and relinquish all right, title and interest in the property by deed or other written agreement.
Example: John Doe, a married man, as his sole and separate property.

CO-OWNERSHIP

- Community Property:
Property acquired by husband and wife, or either during marriage, other than by gift, bequest, devise, descent or as the separate property of either is presumed community property.
Example: John Doe and Mary Doe, husband and wife, as community property.
Example: John Doe and Mary Doe, husband and wife. Example:
John Doe, a married man
- Joint Tenancy:
Joint and equal interests in land owned by two or more individuals created under a single instrument with right of survivorship.
Example: John Doe and Mary Doe, husband and wife, as joint tenants.
- Tenancy in Common:
Under tenancy in common, the co-owners own undivided interests; but unlike joint tenancy, these interests need not be equal in quantity and may arise at different times. There is no right of survivorship; each tenant owns an interest, which on his or her death vests in his or her heirs or devisee.
Example: John Doe, a single man, as to an undivided $\frac{3}{4}$ ths interest, and George Smith, a single man as to an undivided $\frac{1}{4}$ th interest, as tenants in common.
- Trust:
Title to real property in California may be held in trust. The trustee of the trust holds title pursuant to the terms of the trust for the benefit of the trustor/beneficiary.

The preceding summaries are a few of the more common ways to take title to real property in California and are provided for informational purposes only.

There are significant tax and legal consequences on how you hold title. We strongly suggest contacting an attorney and/or CPA for specific advice on how you should actually vest your title.

CONCURRENT CO-OWNERSHIP INTERESTS

The comparison below is provided for information only, it should not be used to determine how you hold title. We highly 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 COMMON	JOINT TENANCY	TENANCY IN TENANCY	TITLE PROPERTY	TENANCY
PARTIES	PARTNERSHIP HOLDING Only husband and wife persons (can be equal interest in business is managed by spouse)	Any number of persons (can be husband and wife)	Any number of persons (can be husband and wife)	Only partners (any number)	Individuals, and wife of persons, partnerships or corporations, a living trust
DIVISION	Ownership and managerial interests must be equal interest in business is managed by spouse	Ownership interests must be divided into any number of interests solely with spouse	Ownership interest is in relation to and control of number of	Ownership is a personal property equal or unequal partnership	Ownership interests are partnership can
TITLE	Title is in the "community." joint tenancy legal management is undivided unified interest	Sale by joint tenant severs title to is held by his/her	Each co-owner has a separate "partnership" interest	Title is in the equitable title Each interest is trustee	Legal and trustee
POSSESSION	Both co-owners have equal management only	Equal right of possession for specified in and	Equal right of possession and control	Equal right of possession, but partnership the trust purposes	Right of possession as provisions
CONVEYANCE	Personal property (except tenancy partnership property. interest in the interest cannot be conveyed)	Conveyance by one co-owner conveyed for trustee to consider consent of other trust conveyed except	Each co-owner's interest may be conveyed for the joint owner trust may be spouse, and upon death	Any authorized parties within others breaks separate beneficiary's transferred.	Designated "necessaries") separately by its valuable requires written separate
PURCHASER'S STATUS	Purchaser can only acquire whole title of community; in the part of it	Purchaser will become a tenant in common with the other co-owners in the assignment or property	Purchaser will become a tenant in common with the other co-property	Purchaser can acquire the whole title interest by cannot acquire a	A purchaser the may obtain a beneficiaries owners may obtain legal and equitable title from the trust

DEATH	On co-owner's death his/her interest ends by will to devisee or heirs. survivorship rights. liquidation of partnership. probate. survivor	On co-owner's death his/her interest passes to the surviving partner pending elimination of the need for succession	On co-owner's death, his/her partnership named in the trust goes by agreement, devisee or by survivorship	On partner's death, beneficiaries may be survivor in severalty. 1/2 descendants property by survivorship deceased partner then goes to his/her estate	Successor death, 1/2 and cannot disposed of by will. Survivor No owns the the Share of
SUCCESSOR'S STATUS	If passing by will, tenancy in common and survivor results.	Last survivor owns property common partnership agreement, specific property	Devisee or heirs become tenants agreement, between successor	Heirs or devisee have rights in devisee interest but	Defined by the trust not generally becomes the beneficiary and the trust continues is interest
CREDITOR'S RIGHTS	Property of Co-owner's may be interest	Co-owner's cannot seek an order	Partner's Creditor may be seized or sold for execution of either spouse, which are his/her share of order that the sold on personal property may be proceeds	RIGHTS community is interest	creditor. Joint his/her creditor. creditor but interest or in obtained by satisfy common distributed
PRESUMPTION	Strong presumption expressed husband and property	Must be expressly stated doubtful partnership created by an agreement	Favored in cases virtue of acquired by and wife is in partnership	Arise only by expressly that case status in partnership community	A trust is property except executed trust