



Methods of Holding Title

Fast Fact

#2

	Community Property	Community Property W/ Right of Survivorship	Joint Tenancy	Tenancy In Common	Partnerships	Trust Arrangements	Community Property Trusts
Parties	Only Husband and Wife	Husband and Wife both should sign the acquisition Deed to accept this special form of vesting title	Any number of persons. Can be husband and wife alone or with others-no corporations-no partnerships	Any number of persons and/or corporations and partnerships	Any number of persons and/or corporations and partnerships MUST be at least two	Any individual, group, partnership or corporations. Other special requirements	Only husband and wife
Division of Interest	Ownership and Management of property is equal	Ownership and 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 and 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	Ownership 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 and 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 in 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 attorneys 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 <u>MUST</u> 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 other's spouse	Purchaser can only acquire 100% of the title. Both spouses must convey. Cannot be a co-owner with other's spouse	Purchaser will become a tenant in common with the other co-owners in the property as to the purchasers 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	Purchased 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
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	Upon a co-owner's death, his/her interest ends and cannot be willed. Survivor(s) owns the property by survivorship	Each owner's interest is devisable by will, or passes by succession under Probate Statutes. No right of survivorship	Partner's share in partnership is devisable by will or passes by succession under Probate Statutes. May cause a 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 of real property only subject to execution sale by partnership creditor. If debt is 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

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 and attorney and/or your tax advisor to determine the legal and tax consequences of how your title should be vested