

Methods of Holding Title to Real Property in California

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This information is only a guide. Consult with an attorney for legal advice.

| | Tenancy in Common | Community Property | Community Property with Right of Survivorship | Joint Tenancy | Partnership |
|-----------------------------|---|--|--|--|---|
| Parties | Any number of persons and / or corporations and / or partnerships. | Husband and wife only. | Husband and wife only. | Unlimited number of persons. Can be husband and wife alone or with others. No corporations or partnerships. | Any number of persons and / or corporations and partnerships with a minimum of two. |
| Division of Interest | Ownership can be divided into any number of interests equal or unequal. | Ownership and management of property is equal. | Ownership and management of property is equal. | Ownership and management of property is equal. Interests are equal and undivided. Each person controls their own interest. | Each partner's share is personal property in partnership entity. |
| Title | Each co-owner has a separate legal title to | Title is in the "community." Each interest is separate | Title is in the "common unity" subject to survivorship | Ownership is joint. Sale by one severs | Title is in partnership entity. |

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| | his / her undivided interest. | but management is unified. | rights. | tenancy as to others. | |
| Possession | Equal right of 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, but only for partnership purposes. |
| Conveyance | Each co-owner's interest may be conveyed separately by its owner. | Personal property (except "necessaries") may be conveyed for valuable consideration without consent of other spouse; real property requires written consent of both spouses. | Requires both spouses for valid conveyance except for security for attorneys fees. The estate may be severed as in joint tenancy by one spouse conveying to himself / herself. | Conveyance by one owner severs the joint tenancy but only as to that owner's interest. | Any authorized partner may convey whole partnership property for partnership purposes. |
| Successor's Status | Successor will become a tenant in common with the other co-owners in the property. | If passing by will, tenancy in common between devisee and survivor results. | Last survivor owns the property. | Successor will become a tenant in common with the other co-owners in the property. Other owners may remain joint tenants. | Heirs or devisee have rights in partnership interest but not specific property. |
| | Each owner's interest is | On the death of the first spouse, half | On the death of the first spouse the | Upon a co-owner's death, his / | Partner's share in partnership is transferable |

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| Effect of Death | transferable by will, or passes by succession under probate statutes. No right of survivorship exists. | interest belongs to the surviving spouse. Other half interest is transferable by will, or passes by succession under probate statutes. | undivided half interest passes to the surviving spouse, the same as joint tenancy. No separate interest is transferable by will. | her interest ends and cannot be willed. Survivor(s) owns the property by right of survivorship. | by will or passes by succession under probate statutes. May cause a dissolution of partnership depending on terms of partnership agreement. |
| Successor's Status | Heirs become tenants in common with other owners. | If first spouse's interest is transferred by will or passes by succession, remaining spouse holds title as tenants in common. | Due to survivorship rights, the surviving spouse owns 100% interest. | Unless joint tenancy is broken, last surviving joint tenant owns entire property, which is now transferable by will. | Heirs have right in partnership interest. |
| Creditor's Rights | Each owner's interest is subject to execution sale. Buyer at sale becomes tenant in common with other owners. | 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 debts 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 debts of either spouse. | Each owner's interest is subject to execution sale to satisfy debts. Joint tenancy is broken. Buyer at sale becomes tenant in common with other owners. | Partner's interest cannot be seized or sold separately by his / her personal creditor but his / her share of profits may be obtained by a personal creditor. Whole property may be sold on execution sale to satisfy partnership creditor. |

Please call us about holding title in corporations, limited partnerships, limited liability companies, or any other way. This matrix is a guide only and is not legal advice.

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