

COMPARISON OF METHODS OF HOLDING TITLE

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| | TENANCY IN COMMON | JOINT TENANCY | TENANCY IN PARTNERSHIP | COMMUNITY PROPERTY | *COMMUNITY PROPERTY with RIGHT OF SURVIVORSHIP (effective 7/01/2001) |
|---------------------------|--|---|--|--|--|
| PARTIES | Any number of persons (can be husband and wife). | Any number of persons (can be husband and wife). | Only partners (any number). | Only husband and wife. | Only husband and wife. |
| DIVISION | Ownership can be divided into any number of interests equal or unequal. | Owner interests must be equal. | Ownership interest is in relation to interest in partnership. | Ownership and managerial interests are equal. | Ownership and managerial interests are equal. |
| TITLE | Each co-owner has a separate legal title to his undivided interest. | There must be unity of title and time. (created in one document) | Title is in the "partnership". | Title is in the "community". Each interest is separate but management is unified. | Title is in the "community". Each interest is separate but management is unified. Title must expressly state community property with right to survivorship. |
| POSSESSION | Equal rights of possession. | Equal rights of possession. | Equal right of possession but only for partnership purposes. | Both co-owners have equal management and control. | Both co-owners have equal management and control. |
| CONVEYANCE | Each co-owner's interest may be conveyed separately by its owner. | Conveyance by one co-owner without the others will sever (terminate) that individual's joint tenancy. | Any authorized partner may convey whole partnership property. No partner may sell his interest in the partnership without the consent of his co-partners. | Real property requires written consent of other spouse and separate interest cannot be conveyed except upon death. | Real property requires written consent of other spouse and separate interest cannot be conveyed except upon death. |
| PURCHASER'S STATUS | Purchaser will become a tenant in common with the other property co-owners. | Purchaser will become a tenant in common with the other co-owners. | Purchaser can only acquire the whole title. | Purchaser can acquire title from the community with written consent or joinder of both spouses. | Purchaser can acquire title from the community with written consent or joinder of both spouses. |
| DEATH | On co-owner's death, his or her interest passes by will to that person's devisees or heirs. No survivorship right. | On co-owner's death his or her interest ends and cannot be disposed of by will. Survivor(s) own(s) the property. An affidavit of death of joint tenant establishes death. | On partner's death, his partnership interest passes to the surviving partner pending liquidation of the partnership. Share of deceased partner then goes to his estate. | Upon death of one spouse, 50% belongs to surviving spouse, 50% goes by will to descendant's devisees or by succession. | Upon death of one spouse, his or her interest ends and cannot be disposed by will. Survivor owns the property 100%. An affidavit of death (community property with right of survivorship) establishes death of a spouse. |
| SUCCESSOR'S STATUS | Devisees or heirs become tenants in common. | Last survivor owns property 100%. | Heirs of devisees have rights in partnership interest but not in specific property. | If passing by will, tenancy in common between devisees and survivor results. | Purchaser can only acquire whole title of community; cannot acquire a part of it. |
| CREDITOR'S RIGHTS | Co-owner's interest may be sold on execution sale to satisfy his or her creditor. The creditor becomes a tenant in common. | Co-owner's interest may be sold on execution sale to satisfy creditor. Joint tenancy is broken, creditor becomes tenant in common. | Partner's interest cannot be seized or sold separately by his personal creditor but his share of profits may be obtained by a personal creditor. Whole property may be sold on execution sale to satisfy partnership creditor. | Property of community is liable for contracts of either spouse which were made after marriage and prior to or after January 1, 1975. Co-owner's interest cannot be sold separately; whole property may be sold on execution to satisfy creditor. | Property of community is liable for contracts of either spouse which were made after marriage and prior to or after January 1, 1975. Co-owner's interest cannot be sold separately; whole property may be sold on execution to satisfy creditor. |
| PRESUMPTION | Favored in doubtful cases except husband and wife case. | Must be expressly stated. Not favored. | Arises only by virtue of partnership status in property placed in partnership. | The legal presumption is that property which has been acquired during the course of the marriage is community property. | After July 1, 2001, there is no presumption. The code reads that deeds must state "community property with the right of survivorship". |

This manner of vesting takes effect on July 1, 2001, pursuant to California Civil Code 682.1. Portions of this chart are reprinted from California Land Title Association. S2-3d (06/04)

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