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JOINT OWNERSHIP OF PROPERTY IN CALIFORNIA

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There are various ways to hold title to real property in California. Joint ownership of property in California is probably one of the most common methods. Joint or co-ownership or real estate is where two or more individuals, or entities, hold title to the property together. Which option is best for you depends on many personal factors, so consult with your California estate planning attorney to determine how to buy, hold and sell your California real estate.
Community Property in California

California is probably best known for being a community property state, although several other states recognize this type of ownership, as well. The media is full of stories of celebrity breakups, where the spouses are forced to split their fortunes right down the middle. Unless, of course, there was a prenuptial agreement in place.

The concept of community property is established in the California Civil Code, which defines the term “community property” as property purchased either by the husband and wife (or registered domestic partners) together or by a husband or wife (or registered domestic partners) individually. This type of ownership is assumed when a couple is married, unless there is some evidence that states otherwise.
What rights do partners have with regard to community property?

The spouses or domestic partners each have the right to dispose of one-half of any property deemed to be community property. If one spouse dies, the surviving spouse automatically receives the deceased spouse’s portion of the property, unless it was disposed of in some other way.
Registered Domestic Partners

Registered domestic partners are individuals who have registered with the California Secretary of State's Domestic Partners Registry. Ownership interests in property jointly owned by Registered Domestic Partners are typically equal. Title is vested in the "community" with each interest being separate but management is unified. In other words, the registered domestic partners each have equal management and control. Any conveyance of the jointly owned real estate requires written consent of both partners.
How can a married person have their own separate property in California?

Because of the community property laws in California, it is not a simple thing to own property in your name alone, if you are married or a registered domestic partner. To do so, you must first have the consent of your partner, which is shown by executing and recording a Quit Claim Deed.
Having rights of survivorship in your community property means that, upon the
death of your spouse, his or her property will pass directly to you without going
through the probate court. This is accomplished by creating a transfer document
which expressly declares that the property is community property “with rights of
survivorship.”

**Joint Tenancy in California**

Joint tenancy is like community property, but it applies to non-married individuals
you own equal shares in the property at issue. Joint tenancy is usually created
through a will or other transfer that expressly states the interest is in joint
tenancy. An important benefit of joint tenancy is the automatic right of
survivorship. Title to real estate owned in joint tenancy, immediately vests in the
surviving joint tenant upon the death of the other joint tenant. This
is true without the need to go through the probate process.
Tenancy in common is different in that the co-owners of the property do not necessarily have equal interests in the property. Instead, each owner may hold a different percentage ownership in the property. There is no right of survivorship, so tenant in common interests will go through probate, unless held in trust, for instance.
When the partners in a partnership business entity jointly own property, that type of interest is referred to as “tenancy in partnership.” The ownership interest mirrors the partner’s specific interest in the partnership. Each partner has an equal right of possession, but solely for purposes of the partnership. If you have questions regarding joint ownership in California, or any other estate planning needs, please contact the Schomer Law Group either online or by calling us at (310) 337-7696.
About the Author

Scott P. Schomer is a graduate of Boston University School of Law and is a frequent lecturer on estate planning and elder law issues, having appeared on local and national television discussing the importance of estate planning. Scott has an extensive litigation background and has over the years obtained in excess of twenty five million dollars in judgments and verdicts for his clients. Scott is a member of the Probate Volunteer Panel and has been appointed by the Los Angeles Superior Court to represent numerous parties in contested proceedings in the probate court. Scott has also served as Judge Pro Tempore of the Los Angeles Municipal Court and also been appointed by the court as an expert in probate matters. Because of his extensive experience, Scott brings a unique perspective to helping protect his clients.

SCHOMER LAW GROUP

Schomer Law Group is a professional law corporation that specializes in elder law, probate, wills, trusts and conservatorships. We counsel clients on the unique legal issues relating to advancing age. Whenever possible, we prefer to help clients plan for the future, avoid probate, minimize taxes and solidify their legacy. We also help clients plan for possible incapacity and long-term care. We help our clients deal with issues of aging with independence and dignity. In addition to estate planning, our firm has considerable experience helping victims of elder abuse. Our firm has aggressively pursued remedies and recovered assets belonging to our elderly clients where unscrupulous individuals have taken advantage of the elderly because of diminished capacity or other impairments.

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