

Common Methods of Holding Title

Overview

Holding Title to a property can be done in several methods, each having implications on transfer, financing, collateralization, and taxing.

This is not legal advice. You should contact an attorney to review specific details and laws around these options.

Sole Ownership

This method is the most common and is held by single men and women, married men or women who hold property apart from their spouse, and business that have a corporate structure allowing them to hold interest in a property.

*The transaction is straightforward because no other parties need to authorize the transaction. If someone wants to hold title apart from their spouse, the spouse may have to disclaim or relinquish their right to the ownership in the property.

Joint Tenancy

This method occurs when two or more people hold title to a property jointly, with equal rights during their lives. If one owner dies, their rights of ownership passes to the surviving owner.

*Neither owner needs to be married or related to each other, and the responsibility for the property, including any financial burden related to the property, belongs to everyone.

Tenancy in Common

This method occurs when two or more persons hold title to a property jointly with equal or unequal percentages of ownership. Their percentage owned simply determines their financial ownership of the property. All other aspects of the property, including right to occupy and use, are shared by all owners of the property. Ownership can be willed to other parties, and in the event of death, ownership will transfer to the owner's heirs undivided.

*All owners share the liability for any debts or taxes on the property.

Tenants by the Entirety

This method can only be used when the owners are legally married and conveys ownership to them as one person, with the title transferred to the other in entirety if one of them dies.

*The transfer of the property must be done together and cannot be subdivided. In a divorce situation, the title automatically converts to tenancy in common and one owner can then transfer ownership of their interest in the property to whomever they wish.

Community Property

This method is typically for specific states that have community property laws for married couples that they intend to own a property together. Each spouse owns (or owes) everything equally and gets an equal division of the property in the event of divorce or death. In certain states it can include property acquired during a common-law marriage.

