

Are you holding a joint title to property with a family member or friend?

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Owning assets jointly with one or more of your children or other heirs is a common estate planning “shortcut.” But like many shortcuts, it may produce unintended — and costly — consequences.

Joint ownership advantages

There are two potential advantages to joint ownership: convenience and probate avoidance. If you hold title to property with a child as joint tenants with “right of survivorship,” when you die, the property is transferred to your child automatically. You don’t need a trust or other estate planning vehicles and it’s not necessary to go through probate.

Joint ownership disadvantages

Joint ownership can offer that aforementioned shortcut, but it can also create a number of problems. This is especially true if you add someone as a co-tenant instead of a joint tenant with right of survivorship. The disadvantages can include:

Unnecessary taxes. Adding a child’s name to the title may be considered an immediate taxable gift of one-half of the property’s value. And when you die, the property’s value then will be included in your taxable estate, although any gift tax paid with the original transfer would be allowed as an offset.

Creditor claims. Joint ownership exposes the property to claims by your co-owner’s creditors or a former spouse.

Loss of control. Your co-owner may be able to dispose of certain property without your consent or prevent you from selling or borrowing against certain property.

Unintended consequences. If your co-owner predeceases you, his or her share of the property may pass according to his or her estate plan or the laws of intestate succession. If you hold the property as tenants-in-common, instead of joint tenants with the right of survivorship, for instance, you’ll generally have no say in the ultimate disposition of that portion of the property.

A trust may be the answer

If your goal is to avoid probate, one or more properly drafted trusts can help to avoid the problems outlined above. If you jointly own assets with family members or friends and have concerns about probate, please contact us.

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