



WAYS TO TAKE TITLE IN ARIZONA (a comparison)

Community Property	<i>Community Property with Right of Survivorship</i>	<i>Joint Tenancy with Right of Survivorship</i>	Tenancy in Common
<ul style="list-style-type: none"> ▪ Requires a valid marriage. ▪ Each Spouse holds an undivided one-half interest in the estate. ▪ One spouse cannot partition the property by selling his or her interest. ▪ Requires signatures of both spouses to convey or encumber. ▪ Each spouse can devise (will) one-half of the community property. ▪ Upon death the estate of the decedent must be "cleared" through probate, affidavit or adjudication. ▪ Both halves of the community property are entitled to a "stepped up" tax basis as of the date of death. 	<ul style="list-style-type: none"> ▪ Requires a valid marriage ▪ Each spouse holds an undivided one-half interest in the estate ▪ One spouse cannot partition the property by selling his or her joint interest. ▪ Requires signatures of both spouses to convey or encumber. ▪ Estate passes to the surviving spouse outside of probate. ▪ No court action required to "clear" title upon death. ▪ Both halves of the community property are entitled to a "stepped up" tax basis as of the date of death. 	<ul style="list-style-type: none"> ▪ Parties need not be married; may be more than two Joint Tenants. ▪ Each joint tenant holds an equal and undivided interest in the estate, unity of interest. ▪ One joint tenant can partition the property by selling his or her joint interest. ▪ Requires signatures of all joint tenants to convey or encumber the whole. ▪ Estate passes to surviving tenant(s) outside of probate. ▪ No court action required to "clear" title upon the death of joint tenant(s). ▪ Deceased tenant's share is entitled to a "stepped up" tax basis as of the date of death. 	<ul style="list-style-type: none"> ▪ Parties need not be married; may be more than two tenants in common. ▪ Each tenant in common holds an undivided fractional interest in the estate. Can be disproportionate, e.g., 20% and 80%; 60% and 40%; 20%, 20%, 20% and 40%; etc. ▪ Each tenant's share can be conveyed, mortgaged or devised to a third party. ▪ Requires signatures of all tenants to convey or encumber the whole. ▪ Upon death the tenant's proportionate share passes to his or her heirs by will or intestacy. ▪ Upon death the estate of the decedent must be "cleared" through probate, affidavit or adjudication. ▪ Each share has its own tax basis.
<p><i>Note: Arizona is a community property state. Property acquired by a husband and wife is presumed to be community property unless legally specified otherwise. Title may be held as "Sole and Separate". If a married person acquires title as sole and separate property, his or her spouse must execute a disclaimer deed to avoid the presumption of community property. Parties may choose to hold title in the name of an entity, e.g., a corporation; a limited liability company; a partnership (general or limited), or a trust. Each method of taking title has certain legal and tax consequences. Therefore, you are encouraged to obtain advice from an attorney or other qualified professional.</i></p>			