

Holding Title to Real Property

A Comparison of Three Different Methods

1031

Knowledge



	COMMUNITY PROPERTY	JOINT TENANCY	TENANCY IN COMMON
PARTIES	Only husband and wife	Any number of persons (Can be husband and wife)	Any number of persons (Can be husband and wife)
CONVEYANCE	Both co-owners must join in conveyance of real property. Separate interests cannot be conveyed.	Conveyance by one co-owner without the others breaks the joint tenancy.	Each co-owner's interest may be exchanged or sold separately by each owner.
CREDITOR'S RIGHTS	Co-owner's interest cannot be seized and sold separately. The whole property may be sold to satisfy debts of either husband or wife, depending on the debt.	Co-owner's interest may be sold on execution sale to satisfy creditor. Joint tenancy is broken, creditor becomes tenant in common.	Co-owner's interest may be sold on execution sale to satisfy the creditor. Creditor becomes tenant in common.
DEATH	On co-owner's death, 1/2 goes to survivor in severalty. Up to 1/2 goes by will or succession to others.	On co-owner's death, the interest ends and cannot be willed. Survivor(s) own(s) the property by survivorship.	On co-owner's death, the interest passes by will to the devisee or heirs. No survivorship rights.
DIVISION	Ownership interests are equal.	Ownership interests cannot be divided without breaking the joint tenancy.	Ownership can be divided into any number of interests, equal or unequal.
TITLE	Title is in the "community" (Similar to title being in a partnership.)	There is only one title to the whole property.	Each co-owner has a separate legal title to their undivided interest which can be exchanged or sold.

Compliments of:



HQ 800.282.1031 | NY 866.394.1031
apiexchange.com | info@apiexchange.com

Asset Preservation, Inc. (API) is a qualified intermediary as defined in the regulations under Internal Revenue Code §1031. Neither API, its officers or employees are authorized or permitted under applicable laws to provide tax or legal advice to any client or prospective client of API. The tax related information contained herein or in any other communication that you may have with a representative of API should not be construed as tax or legal advice specific to your situation and should not be relied upon in making any business, legal or tax related decision. A proper evaluation of the benefits and risks associated with a particular transaction or tax return position often requires advice from a competent tax and/or legal advisor familiar with your specific transaction, objectives and the relevant facts. We strongly urge you to involve your tax and/or legal advisor (or to seek such advice) in any significant real estate or business related transaction. © 2018 Asset Preservation, Inc. All rights reserved.

Holding Title to Real Property

A Comparison of Three Different Methods

1031

Knowledge



In any transaction, whether it is a sale or a 1031 exchange, it is important to understand the differences among the various ways of holding title to real estate. The above chart provides a quick overview of some common ways of holding title. Not all of these methods are available in every state and there are other methods which may be available. It is important to consult with your legal and/or tax advisors to discuss the advantages and disadvantages of these methods in respect to your specific real estate transaction.

Compliments of:



HQ 800.282.1031 | NY 866.394.1031
apiexchange.com | info@apiexchange.com

Asset Preservation, Inc. (API) is a qualified intermediary as defined in the regulations under Internal Revenue Code §1031. Neither API, its officers or employees are authorized or permitted under applicable laws to provide tax or legal advice to any client or prospective client of API. The tax related information contained herein or in any other communication that you may have with a representative of API should not be construed as tax or legal advice specific to your situation and should not be relied upon in making any business, legal or tax related decision. A proper evaluation of the benefits and risks associated with a particular transaction or tax return position often requires advice from a competent tax and/or legal advisor familiar with your specific transaction, objectives and the relevant facts. We strongly urge you to involve your tax and/or legal advisor (or to seek such advice) in any significant real estate or business related transaction. © 2018 Asset Preservation, Inc. All rights reserved.