

WAYS TO TAKE TITLE IN ARIZONA

	TENANCY IN COMMON	JOINT TENANCY WITH RIGHT OF SURVIVORSHIP	COMMUNITY PROPERTY	COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP
PARTIES	Any number of persons. (Can be married couple*)	Any number of persons. (Can be married couple*)	Only married couple*.	Only married couple*.
DIVISION	Ownership can be divided into any number of interests, equal or unequal.	Ownership interest must be equal.	Ownership interest must be equal.	Ownership interest must be equal.
TITLE	Each co-owner has a separate legal title to their undivided interest.	There is only one title to the whole property.	Title is in the "community". Each interest is separate but management is unified.	Title is in the "community". Each interest is separate but management is unified.
POSSESSION	Equal right of possession.	Equal right of possession.	Equal right of possession.	Equal right of possession.
CONVEYANCE	Each co-owner's interest may be conveyed separately by its owner.	Each co-owner's interest may be conveyed separately by its owner.	Purchaser can only acquire whole title of community.	Purchaser can only acquire whole title of community.
PURCHASER'S STATUS	Purchaser will become a tenant in common with the other co-owners in the property.	Purchaser will become a tenant in common with the other co-owners in the property.	Purchaser can only acquire whole title of community.	On spouse's death, their interest ends and cannot be disposed of by will. Estate passes to surviving spouse outside of probate.
DEATH	On co-owner's death, their interest passes by will to the devisees or heirs. No right of survivorship.	On co-owner's death, their interest ends and cannot be disposed of by will. Survivor(s) own(s) the property by right of survivorship.	On spouse's death, 1/2 belongs to surviving spouse in severalty, 1/2 goes by will to descendant's devisees or by succession to surviving spouse.	On spouse's death, their interest ends and cannot be disposed of by will. Estate passes to surviving spouse outside of probate.
CREDITOR'S RIGHTS	Co-owner's interest may be sold at execution sale to satisfy creditor. Creditor becomes a tenant in common.	Co-owner's interest may be sold at execution sale to satisfy creditor. Joint tenancy is broken, creditor becomes a tenant in common.	Spouse's interest cannot be seized and sold separately. The whole property may be sold at execution sale to satisfy creditors.	Spouse's interest cannot be seized and sold separately. The whole property may be sold at execution sale to satisfy creditors.
PRESUMPTION	Court will presume tenancy in common if not expressly stated married couple*.	Must be expressly stated in writing and accepted if married couple*. Court will not presume joint tenancy.	Strong presumption that property acquired by married couple* is community.	Must be expressly stated in writing and accepted. Court will not presume joint tenancy. Both halves of community property are entitled to "stepped up" tax basis as of the date of death of spouse.

*Note: Arizona is a community property state. Property acquired by a married couple 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, their 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 significant legal and tax consequences; therefore, you are encouraged to obtain advice from an attorney or other qualified professional.