



## ESTATE PLANNING & PROPERTY OWNERSHIP

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Titling of assets is a very important part of your overall estate plan. Titles can affect how property is transferred, who will receive it and the eventual costs of estate settlement and taxes. All of these results depend on the way the property is owned.

**There are three basic forms of property ownership: sole ownership, joint tenancy and tenancy in common.**

- **Sole Ownership** is property owned by a single individual. In general, a sole owner can control the property as they choose during lifetime and may, by writing a will, designate its distribution after death. If a sole owner does not have a will, the property will be distributed according to the law of intestate succession in the state of the person's residence.
  - Generally, solely owned property goes through the probate process to clear the title for heirs unless the owner made a payable on death (POD) or transfer on death (TOD) designation.
  - POD and TOD designations allow for the immediate transfer of assets to one or more beneficiaries at the death of an owner. These types of designations are sometimes promoted as a simple way to avoid probate. However, there can be several drawbacks. You should consult your attorney for further discussion before using these types of designations.
- **Co-Ownership** of property exists when two or more individuals hold legal title to property. There are two types of co-ownership designations: Tenancy in Common and Joint Tenancy.
  - **Tenancy in Common (TIC)** is a method of ownership where two or more individuals hold undivided interests in the same property. "Undivided interest" means they each own a part of the total value. Each tenant in common has the right to transfer his or her own share by selling it, giving it away or transferring it through their will. At the death of a tenant in common the interest in their share of the property passes to his/her beneficiaries via their will or to their heirs via intestate succession in their state of residence.
  - **Joint Tenancy with right of survivorship (JTWROS)** is a method of co-ownership of property where two or more individuals own the same property subject to the other joint tenant's ownership right. When a joint tenant dies, his or her interest automatically passes to any surviving joint tenant(s). A joint tenancy designation takes priority over designations of property through a will and by intestacy law. Property held in JTWROS registration would not be subject to the probate process.

Selecting the best way to own your assets is key to an effective estate plan. Each type of asset ownership comes with its own advantages and disadvantages; therefore it is important to obtain professional advice when making these important decisions in order that your assets are passed according to your wishes.