



Joint Tenancy Pros and Cons

Joint Tenancy is a form of real estate title wherein two or more persons hold undivided shares in the property. In a joint tenancy, each joint tenant is usually provided with the “right of survivorship”. This means that if one joint tenant passes away, then the deceased tenant’s portion passes to the surviving joint owners.

In some states, the right to survivorship must be specifically stated and claimed in order to be applicable. Joint tenants cannot deny other joint tenants the right to use and enjoy the shared property. Joint tenancy is often considered an ideal form of title for unmarried couples or persons who are registered as domestic partners.

What Are Some of the Pros and Cons of Joint Tenancy?

There are many pros and cons associated with joint tenancy. Depending on your situation and your individual needs, some of the characteristic features of joint tenancy may or may not be right for you. What might be a disadvantage to one person may actually work for you, and vice versa.

Pros of joint tenancy include:

Right of Survivorship: As a joint tenant, you have the right to a proportionate share of the property in the event that one of the joint tenants becomes deceased. This is probably the main advantage of joint tenancy as opposed to other forms of joint possession of real property (such as tenancy in common).

Tax Benefits: Joint tenancy may allow the owners to take obtain various tax benefits. For example, joint tenancy can sometimes prevent certain types of taxes from being imposed, such as state gift tax requirements.

Rights to Rent: Joint tenants are entitled to their proportional share of rents paid by third parties. This is true regardless of the joint owners’ relation to the renters.

Rights to Profits: Joint owners are also entitled to a proportional share of any profits that may be derived from the land. This includes the discovery of natural resources such as oil, minerals, or gas. They are also entitled to any commercial profits or revenue.

Avoiding Probate: Since the shares of property will pass to the other joint owners, this can help avoid the probate process upon the death of one of the tenants.

Some of the Cons associated with joint tenancy may include:

Increased Level of Responsibility: Joint tenants must pay their proportionate share of taxes, mortgage payments, and any other assessments related to the property.

Duty to Compensate: A joint tenant also has the duty to make compensations to other owners for any waste that they commit against the land or property.

Maintenance and Repairs: Joint owners are liable for their proportional share of necessary costs for repairs and maintenance to the property.

No Inheritance Rights: If one joint tenant dies, the property title is transferred to the surviving joint tenants. Thus, a joint tenant may not be able to transfer property interests to their children or other family members through inheritance.

Again, some of the “cons” of joint tenancy may actually work for you. For example, most persons enter into a joint tenancy arrangement specifically so that they can split mortgage payment duties with other persons. This may result in a lower monthly payment.

