

WAYS TO TAKE TITLE IN ARIZONA : A COMPARISON

<i>Community Property</i>	<i>Community Property with Right of Survivorship</i>	<i>Joint Tenancy with Right of Survivorship</i>	<i>Tenancy in Common</i>
<ul style="list-style-type: none"> Requires a valid marriage. 	<ul style="list-style-type: none"> Requires a valid marriage. 	<ul style="list-style-type: none"> Parties need not be married; may be more than two Joint Tenants 	<ul style="list-style-type: none"> Parties need not be married; may be more than two tenants in common.
<ul style="list-style-type: none"> Each spouse holds an undivided one-half interest in the estate. 	<ul style="list-style-type: none"> Each spouse holds an individual one-half interest in the estate. 	<ul style="list-style-type: none"> Each joint tenant holds an equal and undivided interest in the estate, unity of interest. 	<ul style="list-style-type: none"> 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.
<ul style="list-style-type: none"> One spouse cannot partition the property by selling his or her interest. 	<ul style="list-style-type: none"> One spouse cannot partition the property by selling his or her joint interest. 	<ul style="list-style-type: none"> One joint tenant can partition the property by selling his or her joint interest. 	<ul style="list-style-type: none"> Each tenant's share can be conveyed, mortgaged or devised to a third party.
<ul style="list-style-type: none"> Requires signatures of both spouses to convey encumber. 	<ul style="list-style-type: none"> Requires signatures of both spouses to convey or encumber. 	<ul style="list-style-type: none"> Requires signatures of all joint tenants to convey or encumber the whole. 	<ul style="list-style-type: none"> Requires signatures of all tenants to convey or encumber the whole.
<ul style="list-style-type: none"> Each spouse can devise (will) one-half of the community property. 	<ul style="list-style-type: none"> estate passes to the surviving spouse outside of probate. 	<ul style="list-style-type: none"> Estate passes to surviving tenant(s) outside of probate. 	<ul style="list-style-type: none"> Upon death the tenant's proportionate share passes to his or her heirs by will or intestacy.
<ul style="list-style-type: none"> Upon death the estate of the decedent must be "cleared" through probate, affidavit or adjudication. 	<ul style="list-style-type: none"> No court action required to "clear" title upon the first death. 	<ul style="list-style-type: none"> No court action required to "clear" title upon the death of joint tenant(s). 	<ul style="list-style-type: none"> Upon death the estate of the decedent must be "cleared" through probate, affidavit or adjudication.
<ul style="list-style-type: none"> Both halves of the community property are entitled to a "stepped up" tax basis as the date of death 	<ul style="list-style-type: none"> 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"> Deceased tenant's share is entitled to a "stepped up" tax basis as of the date of death. 	<ul style="list-style-type: none"> Each share has its own tax basis.

Note: Arizona is a community property state. Property acquired by a husband and wife is presumed to be community property unless legally specified. 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.