Pros and Cons of
Joint Ownership of Property with Children

Joint ownership is a common shortcut for estate planning, and individuals should be aware of the pros and cons in order to make an educated decision regarding their estate. Joint ownership is common for real estate, but may be used to hold other kinds of assets.

Pros and Cons

There are a few clear advantages to joint ownership. First, it is convenient. If an individual owns any property and his or her children are joint tenants with "right of survivorship," the property transfers automatically to those children when he or she dies. This transfer occurs without the need of a trust or the involvement of any court or any sort of formal authorization. Avoiding probate (this is the court system for administering estates) results in reduced costs and faster transfer of the property. Thus, joint ownership is easy for individuals to move assets to their children once they pass.

As is the case with many shortcuts, there are downsides. Although joint ownership is favorable due to its simplicity, it can lead to countless issues such as taxes, creditor claims, and loss of control. Adding a child to the property might be a taxable gift (unless the child contributes to his or her interest in the property). Joint ownership may expose the property to unintended benefactors, such as former spouses. Additionally, the co-owner could not dispose of property without the joint owner's consent. Therefore, joint ownership can lead to unfavorable circumstances that could limit his or her say in the ownership of property.

Similarly, if bank or brokerage accounts are owned jointly, either owner could buy or sell assets, and either owner could withdraw all of the assets. Each joint owner would have full legal rights over the total assets in the account. If a person's child cannot be trusted with the money and assets, this may not be a good strategy for them.

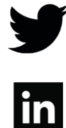
Finally, assets gifted to children (see above about taxable gifts), are not included in one's estate, and the basis of those assets are not stepped-up to fair market value (FMV) at death. When those assets are eventually sold, the gain will be higher because of the asset's lower basis. This could give pause when considering the gifting or transfer of a highly appreciated property.

JTWRS and Wills

Remember that property owned as "joint tenancy with right of survivorship" cannot be disposed of by will. Any reference in a decedent's will is ineffective, as the jointly owned property passes automatically to the co-owner.

There are a variety of options, each of which should be considered with an advisor, factoring in a person or family's specific goals and fact patterns.

To properly consider all of your options and correctly address assets in your estate plan, contact your Anchin relationship partner or Michael Rudegeair, a member of Anchin Private Client, at info@anchin.com or 212.840.3456.



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