4 negative outcomes of jointly owning property with a family member

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A common estate planning mistake that people make is to own property jointly with an adult child or other family member. True, adding a loved one to the title of your home, bank account or other property can be a simple technique for leaving property to that person without the need for probate. But any convenience gained is usually outweighed by a variety of negative consequences. Here are four:

1. Higher gift and estate taxes. Depending on the size of your estate, joint ownership may trigger gift and estate taxes. When you add a family member's name to an asset's title as joint owner, for example, it's considered a taxable gift of half the asset's value. And *your* interest in the asset — including any future appreciation — remains in your taxable estate. These taxes usually can be minimized or even eliminated by transferring the asset to an irrevocable trust.

2. Higher income taxes. Generally, property transferred at death receives a stepped-up basis, allowing your heirs to sell it without incurring capital gains tax liability. But if you add an heir to the property's title as joint owner, only your interest in the property will enjoy this benefit. Any appreciation in the value of your heir's interests between the date he or she is added to the title and the date of your death is subject to capital gains tax.

3. Exposure to creditors' claims. Unlike property transferred to a properly designed trust, jointly held property may be exposed to claims by the joint owner's creditors (and also claims from a former spouse).

4. Loss of control. A joint owner has the right to sell his or her interest to an outside buyer without your consent and the buyer may be able to go to court to force a sale of the property. In addition, when you die, the entire property will go to the surviving owner(s), regardless of the terms of your will or other estate planning documents.

If you currently jointly own property with a family member, please contact us. We can suggest alternative estate planning techniques to ease any gift, estate and income tax liability, and limit your exposure to creditors' claims.

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