

JOINT ACCOUNTS

THINGS TO CONSIDER BEFORE PLACING ASSETS IN A JOINT NAME

Control

- Absolute control of the asset may be lost.
- In the case of real property, the ability to rent, mortgage or sell the property without the co-owner's approval may be limited.
- The new co-owner may have the ability to sever joint tenancy.

Family law issues

- The co-owner's divorcing spouse/common-law partner may be able to claim against the transferred value of the asset upon any relationship breakdown.

Claims by creditors

- The asset may be seized and sold to satisfy the co-owner's creditors.

Potential misuse of the transferred property

- Ensure you know and trust the co-owner; be aware of any gambling or spend-thrift issues, for example, that place the asset at risk.

Effect on your estate plan

- Will your estate have sufficient assets to honour your wishes?
- Will your estate have sufficient assets to pay its debts following the transfer of the asset?

Tax implications

- Unless the transfer is exempt or a resulting trust, the transfer will trigger a disposition that will need to be reported on your tax return.
- Depending on the age of, and relationship to, the co-owner, income tax attribution rules may apply.
- If the asset in question is your principal residence and the co-owner already has a principal residence, any future capital growth of the jointly owned residence may be subject to tax as an individual is entitled to only one principal residence exemption.

THINGS TO CONSIDER AT THE TIME OF TRANSFER

What type of joint account do you wish to create?

- Tenants-in-common where owners hold a separate but undivided interest in the same asset and have an equal right to the possession and use of the property. Each owner can sell or gift his or her share without the co-owner's permission.



- A joint tenancy (gift) where the asset is jointly held by two or more parties, and upon the death of a co-owner, their respective share passes to the surviving co-owner(s); the share of each passing to the other or others on death.
- Joint tenancy (resulting trust) where an asset is placed in joint names for convenience with the understanding that the original co-owner remains the beneficial owner; the new co-owner is simply a trustee overseeing the asset, and the asset will pass through the original co-owner's estate upon their death with the property returned to the original owner or his or her estate.
- The tax impact varies depending on tenancy option employed – joint or other. See chart Tax effects at a glance.
- Do you fully understand your rights, obligations and the implications of each type of joint ownership and have you properly documented your intentions?

* Provincial laws may affect some of the considerations

* Best practice is to consult tax, accounting and legal advice prior to transferring any asset into a joint name

TAX EFFECTS AT A GLANCE

	Joint account (gift)	Joint account (resulting trust)	Tenants-in-common
On transfer	Disposition at fair market value (FMV) of interest divested	No disposition	Disposition at FMV of interest divested
During co-ownership	Income is split among co-owners unless attribution rules apply	Income is reported 100% by you	Income is split among co-owners unless attribution rules apply
Upon your death	Deemed disposition at FMV of only your retained interest is reported on your final return	Deemed disposition of 100% of the asset's FMV is reported on your final return	Deemed disposition at FMV of only your retained interest is reported on your final return
Probate fee?	No Estate Administration Tax (EAT) as the asset passes outside of your estate to the surviving co-owner(s)	Yes, as the asset is part of your estate; EAT may be assessed. Asset to be transferred in accordance with your Will or instructions	Yes, your remaining interest is an asset of your estate. Asset to be transferred in accordance with your Will or instructions

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