

# 10 Perils of Joint Tenancy:

By: Todd C. Ratner

*Joint tenancy is a form of co-ownership. An advantage is that, when one co-owner dies, the surviving co-owner has instant access to the jointly held property, eliminating the need for probate. However, joint tenancy can have its perils.*

**1** **Control Issues.** By providing someone with co-ownership, you give them control of your asset. If you add another person as co-owner of your home, you cannot sell or mortgage the home unless that person agrees.

**2** **Creditor Issues.** If creditors seek out your co-owner for outstanding debt owed, the creditors may be able to obtain part of your home or bank account that is held in joint tenancy.

**3** **Relationship Issues.** If you and your co-owner experience a falling out, the co-owner may be able to take all of the money out of the bank account.

**4** **Substitute for Will Issues.** Parents of several children may place one child's name on an account and assume he will divide assets equally among all siblings. Unfortunately, this method provides no stipulations over control of the money. The surviving co-owner can do with it what he pleases, with no legal obligation.

**5** **Uncertainty Issues.** Unplanned ownership of property often leads to unwanted results, especially for people unable to manage assets.

**6** **Tax Issues.** Careful planning to eliminate or reduce estate taxes can be completely thwarted by a joint tenancy that passes property outright to a surviving joint owner.

**7** **Long-term Care Issues.** Thoughtful planning to reduce long-term care financing can also be thwarted by a joint tenancy that passes property outright to a surviving joint owner.

**8** **Marriage Issues.** Individual property may become marital property once it is transferred into a joint tenancy.

**9** **Incompetency Issues.** If a co-owner becomes incompetent, part of the property may go into a conservatorship, making it burdensome if the other joint tenant wants to sell the jointly held property.

**10** **Distribution Issues.** Joint tenancies deprive you of the flexibility of a will or trust, where you can stagger the distribution ages of the beneficiaries. In a joint-tenancy arrangement, the joint tenant receives the asset all at once.



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