Joint Tenancy Property Registrations

Joint tenancy involves a special relationship between joint tenants in that, upon the death of a joint tenant, his or her interest in the property generally passes in equal shares to the surviving joint tenant(s).

The benefit of jointly held property is that it passes outside of the estate of the deceased and is not subject to probate fees. Further, it may reduce the costs and delays of administering an estate.

However, there are drawbacks and issues to consider with respect to joint tenancy, and one should be well informed before proceeding.

- **Loss of Control** – The transferor no longer has sole control of the property. All decisions, such as selling a whole property must be made with the joint owner(s).

- **Joint Access by all Owners** - All joint owners have full access to the joint property. In the case of a joint investment account, any or all of the funds can be withdrawn by one of the joint owners without the knowledge of the other joint owner(s).

- **Exposure to the creditors** of the New Joint Owner(s)

- **Income tax disposition** - When a taxpayer transfers part ownership in property to another, he or she is deemed to have disposed of the transferred property at the fair market value (except in the case of a transfer to a spouse or common law partner). This deemed transaction may give rise to capital gains.

- **Marriage breakdown** - If the new joint owner goes through a marriage breakdown, the joint asset may become part of the equalization formula.

- **Creditors of a deceased joint owner** - If a creditor is unable to settle their claims via the deceased's estate assets, they may be able to claim against the joint property.

- **Matrimonial property rights** - A married individual cannot sidestep the provincial matrimonial property rules by registering his or her property jointly with someone else who is not their spouse.

It is recommended to discuss any potential joint tenancy arrangement with a qualified tax advisor.

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