



## **The Potential Consequences of Joint Ownership: Here are some drawbacks to relying solely on joint ownership.**

Joint ownership of property, such as joint tenancy, tenancy in common, or tenancy by entirety, can have some advantages. However, it can also have some disadvantages when compared to having a comprehensive Trust-Based Estate Plan in place.

It's important to note that the specifics can vary based on jurisdiction and individual circumstances. Here are some general considerations.

### **Disadvantages**

#### **Limited Control:**

- Joint Ownership: Joint owners each have equal control over the property. This may lead to conflicts or decisions that are not aligned with the original owner's intentions.
- Revocable Living Trust: The trust creator retains more control over the trust assets during their lifetime, and they can specify detailed instructions for distribution after their death.

#### **Inflexibility in Distribution:**

- Joint Ownership: Jointly owned property typically passes directly to the surviving owner(s) outside of probate. This can be inflexible and may not allow for more detailed distribution plans.
- Revocable Living Trust: With a trust, you can set specific conditions for distribution, establish staggered distributions, or provide for contingent beneficiaries based on various factors.

**Creditors and Liabilities:**

- Joint Ownership: The property may be exposed to the creditors or legal issues of any joint owner, potentially jeopardizing the asset's integrity.
- Revocable Living Trust: Assets in a trust may have better protection from creditors or legal claims against the other owners.

**Step-Up Cost Basis Issues:**

- Disadvantage: Jointly held property might not benefit from a stepped-up cost basis for tax purposes at the death of the first owner.
- Consideration: This can have capital gains tax implications when the property is later sold.

**Unintended Consequences:**

- Joint Ownership: Unintended consequences may arise if one joint owner becomes incapacitated or passes away. For instance, the surviving owner might exclude other heirs.
- Revocable Living Trust: A trust can include provisions for incapacity planning, ensuring a smoother transition of control or management.

**Unequal Treatment of Beneficiaries:**

- Joint Ownership: Joint ownership may not provide flexibility in treating beneficiaries unequally or addressing specific needs of different heirs.
- Revocable Living Trust: Trusts offer more customization, allowing for specific bequests, staggered distributions, and addressing individual beneficiary needs.

**Lack of Privacy:**

- Joint Ownership: Changes in joint ownership are often a matter of public record, lacking the privacy that a trust may afford.
- Revocable Living Trust: Trusts provide a higher degree of privacy as their details generally remain confidential.

**Potential for Disputes:**

- Joint Ownership: Disputes can arise among joint owners or their heirs, leading to legal challenges.
- Revocable Living Trust: Well-drafted trust documents can help reduce the likelihood of disputes and provide clear instructions for the distribution of assets.

**Advantages****Avoidance of Probate:**

- Joint Ownership: Assets held in joint tenancy or tenancy by the entirety pass directly to the surviving owner(s) without going through probate.
- Revocable Living Trust: Similarly, assets in a revocable living trust also avoid probate, providing a streamlined transfer of assets after the trust creator's death.

**Simplicity and Cost Savings:**

- Joint Ownership: Establishing joint ownership is often a straightforward process, and it may involve lower initial costs.

- Revocable Living Trust: Creating a trust may involve more detailed documentation and legal work, potentially resulting in higher initial costs.

#### **Immediate Access to Assets:**

- Joint Ownership: The surviving joint owner gains immediate access to the jointly held assets, which can be beneficial for addressing immediate financial needs.
- Revocable Living Trust: While assets in a trust can also be accessible relatively quickly, the process may involve additional steps compared to joint ownership.

#### **Automatic Succession:**

- Joint Ownership: Upon the death of one joint owner, the surviving owner(s) automatically inherit the deceased owner's share of the property.
- Revocable Living Trust: Succession in a trust is also typically automatic, with the successor trustee taking over management and distribution responsibilities.

#### **Potential for Step-Up in Basis**

- Joint Ownership: In some jurisdictions (typically those with community property), joint ownership may provide a step-up in the tax basis of the property to its current market value upon the death of one owner.
- Revocable Living Trust: Assets in a revocable living trust also receive a step-up in basis upon the death of the trust creator.

#### **Flexibility in Joint Management:**

- Joint Ownership: Joint owners have the ability to jointly manage and control the property during their lifetimes, making decisions together.
- Revocable Living Trust: While the trust creator can manage trust assets during their lifetime, the structure may involve more centralized control.

#### **No Need for Probate Administration:**

- Joint Ownership: Upon the death of one joint owner, there is no need for a separate trust administration process. However, after all owners have passed, there would be probate administration.
- Revocable Living Trust: Trust administration is necessary after the trust creator's death, involving the management and distribution of trust assets by the successor trustee.

#### **Potential for Automatic Survivorship Rights:**

- Joint Ownership: Survivorship rights automatically apply to jointly owned property, simplifying the transfer of ownership to the surviving owner(s).
- Revocable Living Trust: The trust terms will control after the death of the trustor.

**It's important to note that the advantages and disadvantages of joint ownership and revocable living trusts can vary based on individual circumstances, state laws, and specific estate planning goals.**

**While joint ownership can be a simple way to pass property to heirs, it may not offer the flexibility, control, and protection that a revocable living trust can provide. Consult with your estate planning and financial professionals to determine the most appropriate estate planning strategy for your needs.**