

Private Client Insights

Tenants in Common Vs Joint Tenants

Why it matters for tax
and succession



Forrester Boyd
CHARTERED ACCOUNTANTS

One decision that can affect generations

How a property is owned is often seen as a technical detail dealt with at the point of purchase. In reality, the distinction between holding property as joint tenants or tenants in common is one of the most important, and most overlooked aspects of tax and succession planning.

The difference is not simply legal wording. It determines what happens on death, how income and gains are taxed, and whether your wider planning will work as intended.

Two Structures, Two Very Different Outcomes

There are two principal ways to own property jointly in the UK.

Under a joint tenancy, all owners are treated as owning the whole property equally. There are no defined shares. The defining feature is the “right of survivorship”. When one owner dies, their interest passes automatically to the surviving owner, regardless of what their Will says.

By contrast, a tenancy in common means each owner holds a distinct share of the property. Those shares can be equal or unequal and, crucially, on death the share passes under the individual’s Will or intestacy rules, rather than automatically to the co-owner.

At a high level, joint tenants prioritise simplicity and certainty. Tenants in common provide flexibility and control.



Why This Matters for Succession

The distinction between joint tenants and tenants in common becomes particularly important when considering both succession and inheritance tax planning, as it directly affects how property passes on death and how tax reliefs can be used.

On death, the key difference is how ownership transfers. Where property is held as joint tenants, it will typically pass automatically to the surviving owner, outside of the Will. While this can provide certainty and security, particularly for spouses, it also means the deceased has no ability to direct where their share ultimately goes.

By contrast, where property is held as tenants in common, each owner retains control over their share, which can pass under their will, be directed into trust, or otherwise structured to protect value over time. This is particularly important in more complex family situations, such as second marriages or blended families, where greater control over succession is required.

From an inheritance tax perspective, an individual's share of the property will generally form part of their estate in either case. However, the ownership structure determines who ultimately receives that value and when. With joint tenancy, the value passes automatically to the surviving owner, which can mean that planning opportunities are deferred until the second death and, in some cases, may limit the ability to utilise allowances effectively across both estates.

In Contrast....

Holding property as tenants in common allows each individual's share to pass under their Will, providing greater flexibility to structure the estate on first death, whether through direct gifts, the use of trusts, or more effective use of available allowances. For families with more complex planning needs, this flexibility is often a key advantage.



Income and Capital Gains Tax Considerations

The ownership structure also affects how income and gains are taxed. Where a property is held as joint tenants, income is generally treated as being split equally between the owners. This can be straightforward, but may not always be the most efficient position, particularly where individuals are subject to different tax rates.

By contrast, holding property as tenants in common allows income to be allocated in line with the underlying ownership shares. This can provide greater flexibility to structure income more efficiently across the owners and, where appropriate, adjust ownership proportions to reflect wider planning objectives.

Care needs to be taken to ensure that any variation in income sharing is implemented formally and in accordance with the relevant rules, as HMRC requires the arrangement to reflect the true beneficial ownership and to be properly documented.

A Similar Principle....

Applies for capital gains tax purposes. The way in which the property is owned will determine how any gain is apportioned on disposal. In a tenants in common arrangement, there is greater scope to structure ownership in a way that makes effective use of available allowances and reliefs, provided the position is clearly established and maintained.



When **Joint Tenancy** Works Well

Joint tenancy is often entirely appropriate, particularly in simpler situations.

It tends to work best where:

- The intention is for everything to pass to the surviving spouse
- Simplicity and certainty are priorities
- There are no competing interests or succession concerns

For many couples with straightforward estates, it provides a simple and effective structure.

When **Tenants in Common** Is More Appropriate

Tenancy in common is often preferable where planning needs to go further.

It is particularly useful where:

- There is a desire to pass value to children on first death
- There are wider family considerations (e.g. stepchildren)
- Tax planning and flexibility are important
- Contributions to a property have been unequal

It allows each individual to take a more active role in determining how their share is used within their broader estate planning.



Practical Implications: Not Just Tax

Beyond tax and succession, the choice of ownership also has important practical implications, particularly where property is held as tenants in common. In this structure, each party owns a defined share of the property, which means their interest is separate and can pass to new owners on death, such as children or trustees. This can result in situations where the remaining owner finds themselves sharing ownership with individuals they had not originally anticipated.

Because each co-owner retains a distinct interest, decisions about the property, such as whether to sell, refinance or invest further, often require agreement between all parties. Where views differ, this can lead to delays or, in some cases, disputes that may ultimately require legal intervention to resolve. Disagreements over ownership proportions, responsibilities or future plans are not uncommon in co-ownership arrangements and can become increasingly complex as new parties become involved.

As a Result....

It is essential that the ownership structure is supported by clear and well-drafted documentation from the outset. This will usually include properly considered wills and, where appropriate, a declaration of trust setting out ownership shares, financial contributions and what should happen in key scenarios such as a sale or a change in ownership. Having these arrangements in place provides clarity for all parties and can significantly reduce the risk of future disputes.



Wider Planning

The distinction between joint tenants and tenants in common may appear technical, but in practice it is fundamental to how property fits into your wider planning. Joint tenancy offers simplicity and certainty. Tenancy in common offers control and flexibility.

Neither is “**right**” or “**wrong**” in isolation - the appropriate structure depends entirely on the individual’s circumstances, objectives and family dynamics. What is clear, however, is that the choice should not be made by default.

If you are unsure how your property is currently held, or whether it still aligns with your planning objectives, it may be worth reviewing your position.

Speak To Our Team

If you would like bespoke advice in relation to property ownership, tax planning or succession please do speak to a member of our Private Client Team.

Clear advice starts with a conversation

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*The right outcome starts
with the right advice*



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