Buying property with other people: Mine, yours or ours?

When people buy property together, particularly if it's with a partner or spouse, they often register the title in both people's names – especially if they're going to live in the property.

But other arrangements are possible, several friends might opt to own individual shares in a property, for example, or a couple might choose to have only one of their names on an investment property title. The following information provides you with a good starting point to help you on your way. Also tax legislation and other Australian laws governing property ownership and investment are complex, so seek proper legal and financial advice before entering into any arrangement.

Joint-ownership titles

The two main types of joint-ownership titles in Australia are joint tenancy and tenancy in common.

Joint tenants own the whole property together. If one of them dies, ownership passes to the surviving tenant or tenants, you can't sell or transfer your 'share' in a joint tenancy. This is the most common arrangement when a couple owns a family home.

Tenants in common own individual shares in a property, and those shares do not have to be equal. Shares in a common tenancy can be transferred to someone else. When one tenant dies, their shares pass to their heirs if they have a will.

Legal liabilities

Tenancy in common is a useful arrangement when a group of people want to buy property together. Each tenant can own a share proportionate to how much money they've contributed, and can sell or otherwise dispose of their share as they wish (unless the tenants have entered into a prior agreement that prohibits this).

Tenants in common can take out individual loans to finance the purchase of their share of a property, with each tenant repaying their own loan. However, tenants in common are "jointly and severally" responsible for all the loans – if one tenant falls behind in their payments, the other tenants are responsible for those payments. You should also be aware that a lender could force the sale of the property to recover money owed by one tenant.

One person's name on the title

When you're buying an investment property with a spouse or partner, there could be tax and other advantages to putting the title in only one person's name.

Capital gains tax is payable when you sell a property that is not your family home, such as an

investment property. Tax on capital gains is calculated as part of your annual income in the year the gain is realised. If the property is in the name of the partner who has low or no income, less tax could be payable than if the income from the capital gain was shared with the partner with a higher income.

Future borrowing

If you already have an investment property, a lender will take into account both the income from the property and the loan you've taken out to buy it when assessing how much they can lend you.

If you own a share in a property as tenant in common, a lender will count the whole debt on the property as your liability – not just your share of it. This could in turn decrease the amount of money they're willing to lend you.