

Straith & Company

The law of joint ownership has significantly changed.

Until quite recently, the commonly held understanding of *joint ownership* of bank accounts, investments etc., as well as land, which have a right of survivorship attached, was that such right of survivorship operated as an *automatic gift or transfer* on the death of one joint owner to the remaining joint owner(s). As a result of recent court decisions, ***joint ownership arrangements can no longer be assured to result in an automatic gift or transfer to a surviving joint tenant.***

Depending upon the circumstances, such joint ownership arrangements may not turn out to be a gift or transfer at all but actually, by application of a legal doctrine called a Resulting Trust, a mere sharing of decision-making power regarding the asset, which asset, upon your death is deemed to remain an asset of your estate *held in trust* by your surviving joint owner. The Resulting Trust completely defeats the gift that you had intended to make, enabling others to share in that asset.

If you have already created, or are considering creating, joint ownership arrangements with another person, we strongly recommend that you contact us or your usual solicitor without delay to review these arrangements, or proposed arrangements, because it may turn out that, in the end, the **OPPOSITE** of what you wanted to achieve will actually transpire.

The law is presently developing and in a state of flux in this area such that we recommend that you check back with this website periodically, or contact us, for information on any further developments.

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