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Personal Tax Planning

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UPDATE ON THE TAXATION OF JOINTLY OWNED PROPERTY

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Joint ownership of family assets, such as the family home, cottage, bank accounts, and investments, is very common in Canada. Next to having a will and life insurance, it is one of the most popular forms of estate planning undertaken by Canadians. This is partly because placing an asset in joint ownership is a relatively easy way to reduce probate fees and other costs of estate administration. Despite its popularity, the joint ownership of property remains a complex area of property law, with implications crossing over into the areas of tax law, estate law, probate law, and family law. It is therefore not surprising that the decision to hold property in joint ownership is often made without a full understanding of the tax and non-tax implications.

This article examines the concept of joint ownership from an income tax perspective, alerts practitioners to possible disadvantages or potential traps related to joint ownership, and considers the impact of two recent decisions of the Supreme Court of Canada dealing with joint accounts.

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