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3. In any case of death of an owner of real estate, whether Tenants in Common, Joint Tenants or Tenants by the Entirety, it is necessary to procure a release of the estate tax or taxes which automatically, by statute, become a lien on the property.

Who has Control and Management?

1. When title is held as Tenants in Common or Joint Tenants, the rents, control, management and possession of the property is in the owners equally, in the absence of an agreement to the contrary, but the individuals can divest themselves of their individual share in the property without the joining in of the others.

2. Under the provisions of M.G.L. c.209, section 1, when title is held as Tenants by the Entirety, (which is limited to husband and wife) rents, control, management and possession of property are in the owners equally. Chapter 209 further provides:

"...The interest of a debtor spouse in property held as tenants by the entirety shall not be subject to seizure or execution by a creditor of such debtor spouse so long as such property is the principal residence of the non-debtor spouse; provided, however, both spouses shall be liable jointly or severally for debts incurred on account of necessaries furnished to either spouse or to a member of their family."

Neither the husband nor the wife can divest themselves of their interest in the property to any one except to each other so long as the marriage lasts without the signature of both."

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