



What is a tenancy in common (TIC)?

The acronym “TIC”, which stands for tenancy in common and tenants in common, refers to arrangements under which two or more people co-own a parcel of real estate without a “right of survivorship”. This type of co-ownership allows each co-owner to choose who will inherit his/her ownership interest upon death. By contrast, the type of co-ownership called “joint tenancy” requires that each co-owner’s interest pass to the other co-owners upon death. The broader terms “fractional ownership”, “shared ownership”, and “co-ownership” encompass all arrangements involving two or more owners, including tenancy in common and joint tenancy.

The terms tenancy in common, tenants in common, and TIC, can be confusing because they are used interchangeably to describe a variety of co-ownership arrangements with very different characteristics and purposes. The “tenant in common issues” critical in one context are often completely irrelevant in another, leading to confusion.

To cut through the confusion, create categories and subcategories for different types of shared ownership arrangements. Start by distinguishing between TICs that assign each co-owner usage rights to the co-owned property, and TICs that do not. Within the world of TICs without assigned usage rights, there are: (i) those that come together informally among groups of family members and friends, sometimes through inheritance, and hold property for investment purposes, and (ii) those that are organized by syndicators or sponsors to be essentially passive investments and repositories for the proceeds of 1031 tax-deferred exchanges. Within the world of tenants in common with assigned usage rights, there are: (i) “space-assignment co-ownerships” (or “SACOs”) which assign particular houses, apartments, rooms, offices, stores, or storage spaces to each owner; (ii) “time-assignment co-ownerships” (or “TACOs”) (formerly called “timeshares” and now commonly referred to as “fractionals”) which assign particular usage times or intervals to each owner; and (iii) “equity shares” where one or more owner gets usage rights, and one or more other owner is purely an investor.

This article will focus on SACOs, which are most commonly formed to co-own multi-unit residential property, where each co-owner has the exclusive usage right to use or derive income from a particular apartment or house. This type of tenant in common can also be used for office buildings, storage facilities, or other commercial property, where each co-owner has the exclusive usage right to use or derive income from a particular suite or space, for undeveloped land, where each co-owner is permitted to building and occupy a home on a particular space, and even for a single house off-campus apartment, where each co-owner has his/her own bedroom but the kitchen, living room and other areas are shared.



What is the difference between a SACO tenancy in common and a condominium?

In a condominium, property has been legally divided into physical parts which can be separately owned. Each condo owner owns a particular area of the property which is delineated on a map recorded in the public records, and has a deed which identifies the area which is individually owned. By contrast, TIC owners own percentages in an undivided property rather than particular units or apartments, and their deeds show only their ownership percentages. The right of a particular TIC owner to use a particular dwelling comes from a written contract signed by all co-owners (often called a “Tenancy In Common Agreement”), not from a deed, map or other document recorded in county records. The difference between physical division of ownership in county records (as in a condominium) and an unrecorded contract allocating usage rights (as in a tenancy in common) is significant from both regulatory and practical standpoints, as discussed below.