

# Community property

## *How marital assets are held in certain states*

Community property is a method for defining the ownership of property acquired during marriage. Community property laws exist in Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. Alaska and Tennessee permit married couples to elect community property treatment.

In general, in community property states, all property acquired during marriage is considered community property owned equally by the husband and wife. Likewise, all debts incurred are debts of the couple. Property owned before the marriage, gifts given to just one spouse and inherited property are considered to be each spouse's separate property.

The distinction between community property and separate property becomes important when determining which assets are disposed of by your will or trust. At the death of one spouse, his or her will or trust determines how half of the community property is distributed. The remaining half continues to belong to the surviving spouse. Both halves of community property receive a full step-up in cost basis for tax purposes (however, it is not certain that this tax result applies to "elective" community property in Alaska or Tennessee). Separate property may be left to whomever the owner wishes. Some of the community property states permit a married couple to sign a written agreement that defines what is community property or separate property of one spouse.

### Community property

- Money either spouse earns during the marriage
- Assets acquired with money either spouse earns during the marriage
- Separate property that has been commingled with community property

### Separate property

- Property owned by one spouse before the marriage
- Property gifted to only one spouse during the marriage
- Property inherited by only one spouse during the marriage

Each community property state has its own unique rules, so be sure to work with an attorney or tax advisor in your state.

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