Real Estate Ownership Worksheet

Information to gather before meeting your lawyer and your tax advisor

What this worksheet is
A place to write down the facts about how your property is owned, and what you and your family actually intended, while everyone still remembers. Take the completed worksheet to your lawyer and your tax advisor.

What this worksheet is not
It is not a legal document. It does not create, confirm, transfer, or end any ownership interest, and it does not decide whether a trust exists. Those questions require legal advice, and the answers can carry significant tax consequences.

Its purpose is to help you prepare for a meeting with your lawyer and your tax advisor. They will have further questions about your particular circumstances, and can give you their opinion on whether a trust exists and on other legal and tax questions about the property. Bear in mind that an advisor gives an opinion. How the Canada Revenue Agency treats the arrangement, or how a court would decide it, is not something anyone can guarantee in advance. Completing or sending this worksheet does not create a professional engagement with anyone.

Do not sign anything that states a legal conclusion about who owns what until your lawyer has advised you.

This worksheet is yours to keep. Store it with your property records and bring it to your lawyer and your tax advisor. There is no need to send it to anyone in advance.

How to use it: Fill in what you know. Where you are unsure, write “not sure” rather than guessing — an honest gap is more useful to your advisors than a wrong answer. Where the people involved remember things differently, write down both versions. Date it, and keep it somewhere safe where your executor can find it, ideally alongside a copy of your will.

1. The property

Address: ____________________

Property Identification Number (PID): ____________________

Approximate size of lot (acres or square feet) ____________________

Approximate current value: ____________________

Is it anyone’s principal residence? If so, whose, and for which years:

____

Is any part rented out or used for a business? Describe:

____

2. Whose names are on title today

Check the deed or land registry record, not the property tax bill.

Name:

Relationship to the other owners:

Name:

Relationship to the other owners:

Do you know whether title is held as joint tenants (with right of survivorship) or as tenants in common?

- ☐ Joint tenants
- ☐ Tenants in common — shares held
- ☐ Not sure

3. How the title came to be this way

This section is about changes of title within the family — for example, adding a child or a spouse. It is not about the original purchase from an unrelated seller. This is the single most important section, because tax consequences usually arise at the moment ownership changed, not later.

Date title was last changed within the family:

Which family members were on title immediately before that change:

Why was the change made? (For example: to avoid probate, to help with a mortgage, to simplify the estate, as a gift, on a purchase.)

Was any money or other value paid by the person added to title?

- ☐ No, nothing was paid
- ☐ Yes — amount and what it was for

Who paid the lawyer, and who instructed that lawyer, when title changed?

4. Who has paid for what

Who bears the costs is strong evidence of who really owns the property.

Cost	Who pays it, and in what share (e.g., 100%, 50%, 33%)
Original purchase price	
Mortgage payments	
Property taxes	
Insurance	
Utilities and routine upkeep	
Major repairs and renovations	

5. Who makes the decisions

Answer these questions in terms of the understanding between the people involved. Set aside the practical steps that apply to everyone, such as needing a lender's approval or a solicitor's signature.

If the property were to be sold tomorrow, who would decide?

Could the beneficial owners decide to sell, mortgage, or renovate the property, and require the legal titleholders to carry that decision out?

- ☐ Yes — the legal titleholders would have to comply
- ☐ No — the legal titleholders could refuse
- ☐ Not sure

Could the legal titleholders sell, mortgage, or renovate the property without the agreement of the beneficial owners?

- ☐ Yes
- ☐ No — the beneficial owners would have to agree
- ☐ Not sure

Does anyone on legal title have to follow another person's instructions about the property — for example, the instructions of a beneficial owner?

- ☐ No — all owners decide together
- ☐ Yes — who instructs, and who follows ______
- ☐ Not sure

Who lives in the property, and on what understanding?

6. What was actually intended

Answer in your own words. Do not try to use legal terms — plain description is more useful to your lawyer.

At the time title changed, what did each of you understand would happen? For example: did the person added to title become a real owner of a share, or was the name added only for convenience?

Can the arrangement be undone? If the original owner asked for title to be transferred back, would that happen?

- ☐ Yes, it would be transferred back on request
- ☐ No — a real share was given away and cannot be taken back
- ☐ Not sure, or we have never discussed it

Do all of the people involved remember the intention the same way?

- ☐ Yes
- ☐ No — describe the differences

Is there anything already in writing about this — an email, a note, a letter, a will clause, a lawyer's file? List what exists and where it is kept:

7. What is meant to happen on death

When the original owner dies, what do you intend to happen to the property?

- ☐ It passes automatically to the surviving owner(s) on title
- ☐ It is dealt with under the will, and shared among the beneficiaries named there
- ☐ Not sure

Does the will say anything about this property? If so, what:

Does that match what the legal title arrangement would do? If you are not sure, say so — this is a common source of family disputes.

What should happen if the original owner needs to move into assisted living accommodations, such as community care or long-term care homes?

8. Tax reporting so far

When title changed, was a disposition reported on anyone's income tax return?

- ☐ Yes — year reported ______
- ☐ No
- ☐ Not sure

If it qualifies, was a principal residence designation filed (Schedule 3 and Form T2091)?

- ☐ Yes
- ☐ No
- ☐ Not sure

Has a T3 Trust Income Tax and Information Return ever been filed for this property?

- ☐ Yes — which years ______
- ☐ No
- ☐ Not sure

Who reports the rental income or expenses, if any?

9. Where the property came from

Whose money bought the property, or who inherited it, can matter more for tax than whose names are on title. Where one spouse provided all of the funds, or inherited the property and later added the other spouse to title, the income and the eventual gain may still have to be reported by that spouse alone. This surprises many couples.

How was the property first acquired?

- ☐ Purchased
- ☐ Inherited
- ☐ Received as a gift
- ☐ Not sure

Whose money was used to acquire it, and in what shares? Include any down payment, mortgage payments, and money used for major improvements.

If it was inherited or received as a gift, who received it, and from whom?

If the property was later put into joint names, when did that happen, and why?

Since then, if the property has produced any rental income, who has reported it on their tax return?

- ☐ The person whose money acquired it
- ☐ Split between the owners on title
- ☐ There has been no income to report
- ☐ Not sure

Does the same situation apply to any other property held jointly — for example, a cottage or an investment account? Describe:

10. Anything else your advisors should know

For example: a separation or divorce, a person on title with creditor problems or a business owner, a family member with a disability, a blended family, or a promise made to someone not on title.

11. Who completed this worksheet

This worksheet is a record of facts and recollections, gathered for discussion with your lawyer and your tax advisor. It is not a declaration of ownership. It does not create, transfer, confirm, or give up any interest in the property, and it does not determine whether a trust exists.

Everyone involved should obtain independent legal advice before taking any further step.

Printed name	*Relationship to the property*	*Date completed*
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Printed name	*Relationship to the property*	*Date completed*

Questions to ask your lawyer and your tax advisor

Take this page with you.

For the lawyer

– Based on these facts, who is the beneficial owner of this property?
– Does a trust exist? If so, is it a bare trust or an express trust?
– Did beneficial ownership change when title changed, or only the legal title?
– Does what we intend on death actually match what the title arrangement will produce?
– Should anything be put in writing now, and does it need to be signed in a particular way?
– Does having another person on title expose the property to that person’s creditors, or to a claim if their marriage breaks down?
– Should each of us have our own lawyer?

For the tax advisor

– Was a taxable disposition triggered when title changed? If so, was it reported?
– If it was not reported, can it still be corrected, and by when?
– Who can claim the principal residence exemption, and for which years?
– If one of us provided the money, or inherited the property, who has to report the income and the eventual gain?
– Is a T3 return required for this arrangement, and does an exception apply?
– What is the filing deadline, and what happens if a return has been missed?
– What will the tax cost be when this property is eventually sold, and who will bear it?

This worksheet is provided for information only. It covers situations that arise commonly and will not capture every arrangement, so completing it does not mean that everything relevant to your circumstances has been identified. Blair Corkum is not a lawyer and does not provide legal advice. This worksheet is not legal or tax advice, and it is not a substitute for professional advice, which you should obtain from your legal and tax advisors before acting.