Money Matters

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Skloff Financial Group Question of the Month

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Q: We read 'How a Gift Can Be a Tax Dream or a Tax Nightmare' Part 1 and Part 2. We also read 'How To (Legally) Avoid Taxes When Selling Your Home' Part 1, Part 2 and Part 3. Furthermore, we read 'How Gifting Versus Selling Your Home Can Be a Tax Dream or a Tax Nightmare' Part 1, Part 2 and Part 3. Lastly, we read 'How a Step-Up in Basis Can Be a Tax Dream' Part 1, Part 2 and Part 3. What are the key similarities and differences between community property and separate property states?

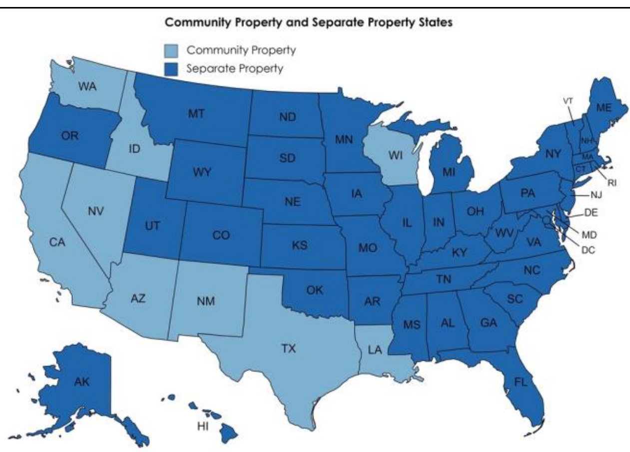
The Problem – Understanding the Key Differences Between Community Property and Separate Property States Can Be Confusing
What's mine is yours and what's yours is mine, in marriage, right? Like many financial questions, the answer depends on the circumstances.

The Solution – Understanding the Key Differences Between Community Property and Separate Property States
Whether it is estate planning, marital planning or tax planning, understanding the key differences between community property and separate property is critically important to develop the best plan. Let's examine the definitions of community property and separate property below.

Community Property. Community property are assets acquired during a marriage by either spouse. In a community property state, property (assets) acquired by either spouse during the marriage belong to both spouses equally, regardless of who purchased the property. Not all states recognize community property. See the map below.

Exceptions to the Community Property Rule. There are three exceptions to the community property rules.
1. Property Owned Before the Marriage. The assets that you owned before your marriage are separate property. If you commingle the assets with your spouse, they can become community property. For example, if you had a savings account in your own name before your marriage and you move the money into a joint account with your spouse after your marriage, that asset can become community property.
2. Gifts. If you receive a gift specifically designated to one person during your marriage, that asset is separate property, not community property. Even if the gift came from one spouse's parent, if it is meant for both of you during your marriage, it will be community property.
3. Inherited Property. If you inherit property during your marriage, where the will or trust specifically designates you as the beneficiary, the property is separate property – not community property. If you commingle the assets with your spouse, they can become community property.

Separate Property. Separate property are assets acquired before a marriage by either spouse. Property gifted to or inherited by one spouse before or during the marriage is separate property. Property acquired by one spouse in their own name with their own income or assets during the marriage is separate property. Most states recognize the common law property system, where property acquired by a married person during marriage is the property of that person separately, unless the person agrees with his or her spouse to hold the property jointly. Not all states recognize separate property. See the map below.



Community Property States

Arizona
California
Idaho
Louisiana
Nevada
New Mexico
Texas
Washington
Wisconsin

Alaska allows for "opt in" community property

Action Steps
Work closely with your Registered Investment Adviser (RIA) to reduce your taxes, and grow and preserve your wealth.

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