

## **IC 32-17.5-4**

### **Chapter 4. Disclaimer of Interest in Property**

#### **IC 32-17.5-4-1**

##### **General provisions**

Sec. 1. Except for a disclaimer under IC 32-17.5-5 or IC 32-17.5-6-1, the following rules apply to a disclaimer of an interest in property:

- (1) A disclaimer takes effect:
  - (A) when the instrument creating the interest becomes irrevocable; or
  - (B) upon the intestate's death if the interest arose under the law of intestate succession.
- (2) A disclaimed interest passes according to any provision in the instrument creating the interest:
  - (A) that provides for the disposition of the interest should the interest be disclaimed; or
  - (B) that concerns disclaimed interests in general.
- (3) If the instrument creating the disclaimed interest does not contain a provision described in subdivision (2), the following rules apply:
  - (A) If the disclaimant is an individual, the following rules apply:
    - (i) Except as provided in items (ii) and (iii), the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution.
    - (ii) If, by law or under the instrument, the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive at the time of distribution.
    - (iii) If the disclaimed interest would have passed to the disclaimant's estate had the disclaimant died before the time of distribution, the disclaimed interest passes by representation to the descendants of the disclaimant who survive at the time of distribution. If no descendant of the disclaimant survives the time of distribution, the disclaimed interest becomes part of the residue under the instrument creating the disclaimed interest.
  - (B) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.
- (4) If the disclaimed interest arose under the law of intestate succession, the disclaimed interest passes as if the disclaimant had died immediately before the intestate's death.
- (5) Upon the disclaimer of a preceding interest:
  - (A) a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution; and

(B) a future interest held by the disclaimant is not accelerated in possession or enjoyment.

*As added by P.L. 5-2003, SEC. 1. Amended by P.L. 238-2005, SEC. 54; P.L. 6-2010, SEC. 38.*