

IC 32-17.5-6

Chapter 6. Disclaimer of Certain Powers or Interests

IC 32-17.5-6-1

Disclaimer by trustee

Sec. 1. If a trustee disclaims an interest in property that otherwise would have become trust property, the interest does not become trust property.

As added by P.L.5-2003, SEC.1.

IC 32-17.5-6-2

Disclaiming power of appointment

Sec. 2. If the holder of a power of appointment or other power not held in a fiduciary capacity disclaims the power, the following rules apply:

- (1) If the holder has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.
- (2) If the holder has exercised the power and the disclaimer is of a power other than a presently exercisable general power of appointment, the disclaimer takes effect immediately after the last exercise of the power.
- (3) The instrument creating the power is construed as if the power expired when the disclaimer became effective.

As added by P.L.5-2003, SEC.1.

IC 32-17.5-6-3

Disclaimer by appointee of power of appointment

Sec. 3. (a) A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.

(b) A disclaimer of an interest in property by:

- (1) persons eligible to receive property upon exercise of the power of appointment; or
- (2) a taker in default of an exercise of a power of appointment;

takes effect as of the time the instrument creating the power becomes irrevocable.

As added by P.L.5-2003, SEC.1.

IC 32-17.5-6-4

Disclaiming power held in fiduciary capacity

Sec. 4. (a) If a fiduciary disclaims a power held in a fiduciary capacity that has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(b) If a fiduciary disclaims a power held in a fiduciary capacity that has been exercised, the disclaimer takes effect immediately after the last exercise of the power.

(c) A disclaimer under this section is effective as to another

fiduciary if the disclaimer so provides and the fiduciary disclaiming has the authority to bind the estate, trust, or other person for whom the fiduciary is acting.

As added by P.L.5-2003, SEC.1.