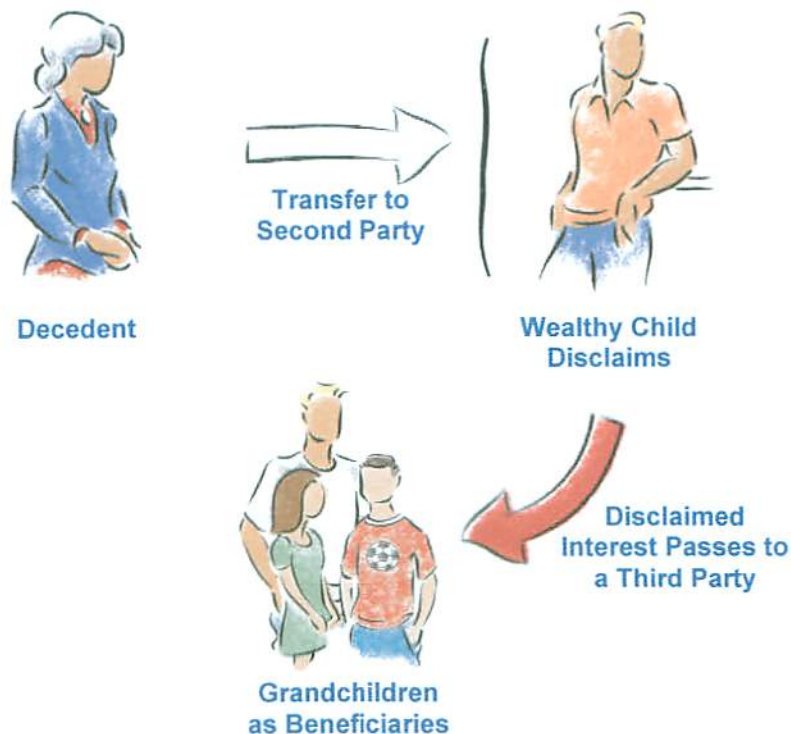


Disclaimers

Disclaimers are a means of renouncing a gift or inheritance so that it passes to a third party without being taxed to the intended beneficiary.



Requirements for a Successful Disclaimer

IRC Sec. 2518 sets forth the tests that must be met for a successful disclaimer.

- The refusal to accept the interest must be irrevocable and unqualified.
- It must generally¹ be made within nine months after the transfer creating the interest (i.e., death) or nine months after disclaimant's 21st birthday, if that is later.
- It must be in writing.
- The disclaimant may not have accepted any benefits from the disclaimed interest.
- Without any direction on the part of the disclaimant, the interest must pass to another person or entity (i.e., spouse, children, charity, etc.). A written transfer of an entire interest in property to the person(s) who would have received the same had it been disclaimed will be treated as an effective disclaimer provided the other listed requirements are met.

¹ See Reg. 25.2518-2(c)(4), as amended by TD8744 (12/31/97), for an exception to the nine-month rule for certain jointly owned property.

Continued...

Disclaimers

Situations Which May Be Improved with a Disclaimer

- A wealthy child inherits from his parents and by disclaiming the interest it will pass to his children, thus by-passing his generation for estate tax purposes (subject to potential generation-skipping transfer tax).
- A surviving spouse is given the entire estate under the unlimited marital deduction; and by disclaiming a portion of the interest equal to the applicable credit amount of the deceased spouse, he or she can avoid having that portion taxed in his or her estate when he or she later dies.
- A surviving spouse or child is given a general power of appointment over an interest, which will make it includable in his or her estate. This power can be disclaimed to avoid the additional tax.

Note: Under the Tax Act of 2001, the federal estate tax is gradually phased out until its final repeal in the year 2010. If Congress does not act at that time to repeal it for the years following, it will automatically revert back to the rates in effect during the year 2001, with an exemption for the first \$1,000,000 of assets.