

**524.2-1108 DISCLAIMER OF INTEREST IN PROPERTY.**

(a) Except for a disclaimer governed by section 524.2-1109 or 524.2-1110, the rules in paragraphs (b) to (d) apply to a disclaimer of an interest in property.

(b) The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable, or, if the interest arose under the law of intestate succession, as of the time of the intestate's death.

(c) The disclaimed interest passes according to any provision in the instrument creating the interest providing for the disposition of the interest, should it be disclaimed, or as disclaimed interests in general.

(d) If the instrument does not contain a provision described in paragraph (c), the following rules apply:

(1) if the disclaimant is an individual, the disclaimed interest passes as if the disclaimant had died immediately before the interest was created, unless under the governing instrument or other applicable law, the disclaimed interest is contingent on surviving to the time of distribution, in which case the disclaimed interest passes as if the disclaimant had died immediately before the time for distribution. However, if, by law or under the governing 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 the time of distribution. For purposes of this paragraph, a disclaimed interest is created at the death of the benefactor or such earlier time, if any, that the benefactor's transfer of the interest is a completed gift for federal gift tax purposes. Also for purposes of this paragraph, a disclaimed interest in an inter vivos trust and other will substitutes that do not lapse with certainty under state law shall pass as if the interest had been created under a will;

(2) if the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist; and

(3) upon the disclaimer of a preceding interest, 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, but a future interest held by the disclaimant is not accelerated in possession or enjoyment as a result of the disclaimer.

**History:** 2009 c 67 s 8