

Disclaiming Inheritances

You may anticipate a big inheritance and have a judgment creditor. How can you judgment-proof your inheritance? One solution is to disclaim your inheritance. Any beneficiary can disclaim their inheritance. This passes the inheritance on to the next generation. A disclaimer is a particularly good strategy when you prefer your children to receive your inheritance rather than risk losing it to your creditor.

A disclaimer is a complete and unqualified refusal to accept rights or property. You can disclaim gifts and inheritances. Your alternate beneficiaries may be your children, spouse, or anyone else you designate to receive the gift. For a disclaimer to be effective, observe several requirements:

- 1) put your disclaimer writing,
- 2) you must not have previously accepted any part of the property (or any benefits of ownership) and
- 3) your disclaimer must be received by the transferor within nine months from the date of the transfer or the date the document creating the interest (the bequeath or gift) is made.

If you want to bequeath wealth and protect your beneficiaries, change your will. Direct the inheritances to a protective entity that insulates the inheritance from the beneficiaries' creditors. For example, you may direct the inheritance to:

- 1) domestic testamentary trust with spendthrift, anti-alienation, and discretionary provisions,
- 2) offshore asset protection trust or
- 3) limited partnership or LLC.

The legacy directed to a protective entity can be structured so that the full benefits of the gift or bequest can still be enjoyed by the beneficiaries.