



## WHY YOUR STATE SHOULD ADOPT THE UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT (2011)

A disclaimer is formal refusal to accept a transfer of property. Any person who would inherit property in a probate proceeding or as the beneficiary listed on an account has the right to disclaim. A disclaimer is often used to avoid incurring a tax liability or other financial obligation, but can also be used to redirect property to another person who would benefit more.

The Uniform Law Commission approved an updated version of the Uniform Disclaimer of Property Interests Act (UDPIA) in 2011. The 2011 act offers several improvements upon the previous version:

- ***The 2011 UDPIA removes an unnecessary nine-month time limit.*** Federal tax law includes a requirement to disclaim a present interest in property within nine months after the interest was created. While this deadline is important for federal tax purposes, it also prevented some disclaimers for other purposes and served as a tax trap for the unwary because it did not apply to future interests in property. The 2011 UDPIA removes the trap by eliminating the nine-month time limit and thus clearly signaling that the requirements for a tax-qualified disclaimer are a matter of federal law, not state law. Under the 2011 UDPIA, an effective disclaimer can be made at any time up until the property is accepted.
- ***The 2011 UDPIA clarifies the timing of a disclaimer.*** The 2011 UDPIA expressly provides when a disclaimer becomes effective and irrevocable, which varies depending on the type of property disclaimed. The clearer rules will prevent unnecessary litigation over timing issues.
- ***The 2011 UDPIA provides for disclaimers of jointly owned property.*** Disclaimers by joint owners can have important tax implications, but the legal effect of such a disclaimer was unclear under the previous version of the UDPIA.
- ***The 2011 UDPIA addresses disclaimers by third parties.*** Previous law was unclear with respect to the rights of fiduciaries and holders of a power of appointment to disclaim property on behalf of another person. The 2011 UDPIA clearly authorizes such disclaimers which are a useful tool for estate planners and individuals to strategically redirect the transfer of property.

For further information about the UDPIA, please contact ULC Chief Counsel Benjamin Orzeske at (312) 450-6621 or [borzeske@uniformlaws.org](mailto:borzeske@uniformlaws.org).