

Memorandum 82-20

Subject: Study L-607 - Probate Law (General Provisions--Disclaimers)

Probate Code Sections 190-190.10 provide for the disclaimer of various interests by a person who would otherwise take by intestate succession, by will, as beneficiary of a testamentary trust, under a power of appointment, or as a beneficiary of an inter vivos gift. Disclaimers are used to reduce taxes to an estate or a beneficiary. However, in California, it appears that the disclaimer statute is too limited in that it does not provide for disclaiming life insurance benefits, annuities, employee benefits, or joint tenancies. The California statute also needs revision to qualify disclaimers under Section 2518 of the Internal Revenue Code.

The staff has not had time to prepare a comprehensive revision of the disclaimer provisions, but plan to include a proposed revision of this area of the law in the comprehensive tentative recommendation on wills and intestate succession. We hope the draft will incorporate the work of the Probate, Trust and Estate Planning Committee of the Beverly Hills Bar Association which is currently studying this area with the intention of introducing legislation.

Respectfully submitted,

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