WEST VIRGINIA CODE: §42-6-12

§42-6-12. Delivery of disclaimer.

(a) In this section, "beneficiary designation" means an instrument, other than an instrument creating a trust, naming the beneficiary of:

(1) An annuity or insurance policy;

(2) An account with a designation for payment on death;

(3) A security registered in beneficiary form;

(4) A pension, profit-sharing, retirement or other employment-related benefit plan; or

(5) Any other nonprobate transfer at death.

(b) Subject to subsections (c) through (l), inclusive, of this section, delivery of a disclaimer may be effected by personal delivery, first-class mail or any other method likely to result in its receipt.

(c) In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

(1) A disclaimer must be delivered to the personal representative of the decedent's estate; or

(2) If no personal representative is then serving, it must be filed in the office of the clerk of the county commission of the county in which proceedings for the administration of the estate of the deceased owner or deceased donee of the power have been commenced.

(d) In the case of an interest in a testamentary trust:

(1) A disclaimer must be delivered to the trustee then serving or, if no trustee is then serving, to the personal representative of the decedent's estate; or

(2) If no trustee is then serving, it must be filed in the office of the clerk of the county commission of the county in which proceedings for the administration of the estate of the deceased owner or deceased donee of the power have been commenced.

(e) In the case of an interest in an inter vivos trust:

(1) A disclaimer must be delivered to the trustee then serving;

(2) If no trustee is then serving, it must be filed in the office of the clerk of the county commission of the county having in rem jurisdiction over the corpus of the trust; or

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(3) If the disclaimer is made before the time the instrument creating the trust becomes irrevocable, it must be delivered to the settlor of a revocable trust or the transferor of the interest.

(f) In the case of an interest created by a beneficiary designation made before the time the designation becomes irrevocable, a disclaimer must be delivered to the person making the beneficiary designation.

(g) In the case of an interest created by a beneficiary designation made after the time the designation becomes irrevocable, a disclaimer must be delivered to the person obligated to distribute the interest.

(h) In the case of a disclaimer by a surviving holder of jointly held property with right of survivorship, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

(i) In the case of a disclaimer by an object or taker in default of exercise of a power of appointment at any time after the power was created:

(1) The disclaimer must be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power; or

(2) If no fiduciary is then serving, it must be filed in the office of the clerk of the county commission of the county having in rem jurisdiction over the assets subject to the power of appointment.

(j) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment:

(1) The disclaimer must be delivered to the holder, the personal representative of the holder's estate or to the fiduciary under the instrument that created the power; or

(2) If no fiduciary is then serving, it must be filed in the office of the clerk of the county commission of the county having in rem jurisdiction over assets subject to the power of appointment.

(k) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in subsection (c), (d) or (e) of this section, as if the power disclaimed were an interest in property.

(l) In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.

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