

**FORM 23—DISCLAIM FULL INTEREST IN ESTATE**

[Caption. See Special Instruction 87.]

**Disclaimers**

Pursuant to Chapter 122 of the Texas Estates Code and Sections 2046 and 2518 of the Internal Revenue Code and regulations thereunder, I, **6.71**, hereby disclaim any interest in any property that I may be entitled to receive from the estate or by virtue of the death [**include if D left a will:** or under the will] of **1.01**, Deceased. I also disclaim any income attributable to the disclaimed interest. These disclaimers are an unqualified refusal to accept these interests and are irrevocable.

I represent and warrant that I have not accepted any of the above interests, that I have not authorized anyone else to do so on my behalf, and that I have not received any consideration for making these disclaimers.

I [am/am not] a child support obligor described by Section 122.107 of the Texas Estates Code.

DATED \_\_\_\_\_.

\_\_\_\_\_  
**6.71**

STATE OF TEXAS            )  
  )  
COUNTY OF \_\_\_\_\_  )

This instrument was acknowledged before me on \_\_\_\_\_ by  
**6.71.**

\_\_\_\_\_  
Notary Public, State of Texas

Receipt of this disclaimer is acknowledged by me on \_\_\_\_\_.

\_\_\_\_\_  
**2.45 or 2.76 or 2.91, 2.85**

## SPECIAL INSTRUCTION 58—WHO INHERITS WHEN THERE IS NO WILL

Who inherits when there is no will is determined by reference to the Texas laws of intestate succession and the laws of descent and distribution. See Estates Code, Sections 201.001 and 201.002, for separate property, and Estates Code, Section 201.003, for community property.

The first step in applying these laws is to determine whether property is community property or decedent's separate property, because the rules are different for each type of property. The next step is to determine if decedent was married and/or if decedent had children or descendants of children at the time of death. For simplicity, we will shortcut by referring to these children or their descendants as "children." The third step is to determine whether the property is real estate or personal property. The fourth step is to determine if all these people survived decedent by at least 120 hours. Estates Code, Sections 121.052 and 121.053.

Generally speaking, separate property is all property that decedent owned before marriage, all property acquired by decedent in another state during marriage that is not community property under the laws of that state, and all property received by decedent at any time by gift or inheritance. All other property is community property.

If decedent was **married** and had **no children**, decedent's surviving spouse inherits all community property. If decedent died on or after September 1, 1993, and was **married and had children from a prior marriage**, decedent's surviving spouse retains one-half of the community property and decedent's children collectively divide decedent's remaining one-half of the community. If decedent died on or after September 1, 1993, and was **married and all of the children were the children of decedent and decedent's surviving spouse**, decedent's surviving spouse inherits all community property.

### COMMUNITY PROPERTY

#### MARRIED DECEDENT WITH NO CHILDREN OR DESCENDANTS

##### REAL ESTATE

All to Wife or  
Husband

##### OTHER PROPERTY

All to Wife or  
Husband

#### MARRIED DECEDENT WHO DIED BEFORE SEPTEMBER 1, 1993, WITH CHILD OR CHILDREN

Entire community is divided like this:

##### REAL ESTATE

1/2 equally divided among D's children	1/2 retained by Wife or Husband
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##### OTHER PROPERTY

1/2 equally divided among D's children	1/2 retained by Wife or Husband
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Children of deceased children take their parent's share. Advancements to children must be accounted for.

MARRIED DECEDENT WHO DIED ON OR AFTER SEPTEMBER 1, 1993,  
AND ALL SURVIVING CHILDREN AND DESCENDANTS ARE ALSO  
CHILDREN AND DESCENDANTS OF THE SURVIVING SPOUSE

REAL ESTATE

All to Wife or Husband
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OTHER PROPERTY

All to Wife or Husband
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MARRIED DECEDENT WHO DIED ON OR AFTER SEPTEMBER 1, 1993,  
BUT A SURVIVING CHILD OR OTHER DESCENDANT IS NOT THE CHILD  
OR DESCENDANT OF THE SURVIVING SPOUSE

REAL ESTATE

1/2 equally divided among D's children	1/2 retained by Wife or Husband
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OTHER PROPERTY

1/2 equally divided among D's children	1/2 retained by Wife or Husband
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Children of deceased children take their parent's share. Advancements to children must be accounted for.

**SEPARATE PROPERTY**

MARRIED DECEDENT WITH CHILD OR CHILDREN

REAL ESTATE

2/3 equally divided among D's children	1/3 to Wife or Husband for Life*
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OTHER PROPERTY

2/3 equally divided among D's children	1/3 to Wife or Husband
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\* To children and their descendants upon death of surviving wife or husband.

If decedent was survived by a SPOUSE but had NO CHILDREN, decedent's surviving spouse inherits all personal property and one-half of the real estate, and one-fourth of the real estate goes to decedent's father and one-fourth goes to decedent's mother. If only one parent survives, that parent receives one-fourth of the real estate and the other one-fourth is equally divided between decedent's brothers and sisters

and their descendants (referred to hereafter as "brothers and sisters" for simplicity). If no brothers or sisters survive decedent, then the surviving parent inherits a full one-half of the real estate. If there is no surviving parent, the brothers and sisters divide that one-half of the real estate. Only when decedent is not survived by parents or by brothers and sisters will the surviving spouse inherit all the real estate.