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5-6
Tribal Funds
General

MAR -5 1927



Regulations
for the

Distribution and payment of pro
rata shares of tribal and trust
funds.

Submitted with recommendation for approval.

Charles E. Smith
Commissioner.

Approved: JUN 29 1927

(Sgd.) HUBERT WORK.
Secretary.

T. J. ...
Secretary

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PRO RATA SHARES.

The act of March 2, 1907 (34 Stat. L., 1221), provides:

That the Secretary of the Interior is hereby authorized, in his discretion, from time to time, to designate any individual Indian belonging to any tribe or tribes whom he may deem to be capable of managing his or her affairs, and he may cause to be apportioned and allotted to any such Indian his or her pro rata share of any tribal or trust funds on deposit in the Treasury of the United States to the credit of the tribe or tribes of which said Indian is a member, and the amount so apportioned and allotted shall be placed to the credit of such Indian upon the books of the Treasury, and the same shall thereupon be subject to the order of such Indian: Provided, that no apportionment or allotment shall be made to any Indian until such Indian has first made an application therefor.

This act was amended by the act of May 18, 1916 (39 Stat. L., 126), by the addition thereto of the following language:

That the pro rata share of any Indian who is mentally or physically incapable of managing his or her own affairs may be withdrawn from the Treasury, in the discretion of the Secretary of the Interior, and expended for the benefit of such Indian under such rules, regulations, and conditions as the said Secretary may prescribe: PROVIDED, that said funds of any Indian shall not be withdrawn from the Treasury until needed by the Indian and upon his application and when approved by the Secretary of the Interior.

I. Competent Indians.

A. Fee-simple patents. - When the applicant has been granted a patent in fee or certificate of competency, that fact will be accepted as prima facie evidence of his competency, but in forwarding applications of this class the agent will give the date on which the patent was issued, report whether in his judgment the patentee has made proper use of his privileges and would make good use of his share of the tribal funds if paid to him, and make a specific recommendation for approval or disapproval of the application.

2. Applicants who have received neither fee-simple patents nor certificates of competency. - In the case of an applicant who has received neither a fee-simple patent nor a certificate of competency, the application must be accompanied by evidence which will establish the fact that he is capable of managing his own affairs. In forwarding applications of this class the Superintendent will report fully as follows:

1. Is the applicant living on his allotment? If so, is he making reasonable efforts to cultivate his land and to support himself and family? If he is not living on his allotment, what is his occupation?
2. Is any part of his allotment leased? If so, to what extent does he depend upon the rent therefrom to support himself and family?
3. Has the applicant been given the privilege of leasing his own lands; and if so, with what result?
4. Has he an interest in any inherited land? If he has sold or leased any inherited land, how has he managed the proceeds?
5. Is the applicant of good moral character?
6. Is he addicted to the use of intoxicants? And if so, does this habit, in the judgment of the agent, unfit him to make proper use of his share of the tribal funds?
7. What is his physical condition?
8. Is the applicant in debt? If so, to what extent and for what purpose was the debt incurred?
9. Has the applicant the necessary business qualifications to enable him to manage his own affairs?
10. Give such other information concerning the applicant as will aid the office in determining whether or not to approve his application.
11. Make a specific recommendation for the approval or disapproval of the application.

II. Applicants Who Are Mentally or Physically Incapable of Managing Their Affairs.

Applications of this class must be accompanied by evidence that will establish the advisability of withdrawing the share. If the application is approved, the funds will be deposited to the credit of the Indian and handled as individual Indian money.

In forwarding applications the agent will report fully as follows:

1. Sex and exact date of birth.
2. Identify the applicant by allotment and last annuity-roll numbers.
3. What is the actual physical condition of the applicant? If suffering from disease, submit certificate of physician if necessary to establish disability.
4. What is the actual mental condition of the applicant? Answer fully.
5. What are the material resources of the applicant?
6. What advantages will accrue to applicant by withdrawal of his or her share at this time?
7. Has it been explained to the applicant and does he understand that if the application is approved the funds will be deposited to his credit as individual Indian money to be expended under the supervision of the superintendent?
8. Make a specific recommendation for the approval or disapproval of the application.

III. In General.

A. Each application must be submitted in duplicate on form 5-304, and transmitted with a separate report in duplicate.

B. The aid of an attorney is unnecessary.

C. On November 6, 1908, the Secretary of the Interior decided, in effect, that the interest of an Indian in a pro rata share of a tribal fund does not vest in the Indian as inheritable property until after his application has been approved by the Secretary and an order signed by him segregating it from the tribal fund. Applications for shares of funds under this act may be made at any time, but in view of the Secretary's decision such applications should be forwarded to the Indian Office by the superintendent as soon as they are completed and filed with him. Applications from those who are blind, decrepit, etc., must be made special and forwarded to the Indian Office as soon as possible.

D. In estimating the pro rata share of an individual, the last annuity pay-roll prior to July 1 or January 1 of each year

will be taken as a basis of distribution. Where no payment has been made within one year, the last census, if taken within the year, will be the basis. If no census has been taken or payment made within a year, the last available record -- either census or annuity-roll will be used.

2. In the event of the death of an applicant prior to the approval of his application by the Secretary of the Interior, the share to which he would have been entitled, if living, will revert to his heirs. In case of the death of an applicant after approval of his application and the signing by the Secretary of the Interior of an order for the payment of his share, but before payment is made, his share will revert to his legal heirs, and should be distributed to the death of the estate pending Bureau Administration thereof.

