Indians

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Revised as of April 1, 1986

CONTAINING
A CODIFICATION OF DOCUMENTS
OF GENERAL APPLICABILITY
AND FUTURE EFFECT

AS OF APRIL 1, 1986

With Ancillaries

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(3) In the case of a potential tribal beneficiary, the acceptance must be accompanied by a resolution of the appropriate tribal entity approving the acceptance and authorizing the designated tribal representative(s) to sign the acceptance. An acceptance on behalf of an estate account may be signed by the Superintendent if the determination of heirs has not become final and may be signed on behalf of individual inherited shares by each heir if the probate determination has become final. An acceptance on behalf of a minor may be signed by a parent, guardian or a person acting in loco parentis. An acceptance on behalf of an adult who has been determined legally incompetent or in need of assistance in managing his/her affairs pursuant to 25 CFR 115.9 may be signed by his/her authorized representative.

(d) *Distribution.* (1) After the expiration of the deadline established in paragraph (b) of this section, funds of individual beneficiaries who have completed the acceptance forms will be transferred from the IMPL Escrow Account into each beneficiary’s IIM account. Funds derived from beneficiary estate accounts for which the heirs have been determined will be transferred into the heirs’ accounts. Funds derived from beneficiary estate accounts for which the heirs have not been determined will be transferred into the estate account.

(2) Interest accrued for any period after October 1, 1982 will be credited to the beneficiary accounts on the same percentage basis as the original share.

(3) After the expiration of the deadline established in paragraph (b) of this section, funds of a tribal beneficiary and interest earned thereon since October 1, 1982 will be transferred into the appropriate tribal treasury account.

(4) Not more than ten percent (10%) of the funds which may be transferred to a trust account for any tribe, or to an IIM account for an individual, may be utilized by the beneficiary to pay for legal or other representation relating to claims for such funds.

(5) Not more than two percent (2%) of the funds which may be transferred to a trust account for any tribe, or to an IIM account for an individual, may be utilized by the beneficiary to pay for legal or other representation relating to claims for such funds.

(e) *Appeals.* (1) Any potential beneficiary or claimant may appeal any decision made or action taken by a Superintendent under this section. Such appeal shall be made in writing and submitted as provided in 25 CFR Part 2.

(2) As provided in Part 2, the appeal must be received within 30 days after receipt of the written notice advising the potential beneficiary of his/her share of the IMPL Escrow account or advising the claimant that no share has been determined for him/her. No appeals will be accepted under this section after September 30, 1985.

(f) *Distribution of residual funds.* (1) After final administrative determination of ownership, including final determination of all appeals, and the completion of all appropriate fund transfers, but not later than October 1, 1985, any funds remaining in an agency IMPL escrow account may be expended subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the governing body(s) of the tribe(s) at the location(s) where such agency IMPL escrow account is maintained. This authority to expend the escrow account funds ends September 30, 1987.

(2) The unobligated balances of all IMPL escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the U.S. Treasury.

PART 115—INDIVIDUAL INDIAN MONEY ACCOUNTS

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§ 115.1 Definitions.

As used in this part:

(a) The term “individual Indian money accounts” means those accounts under the control of the Secretary of the Interior or his authorized representative belonging to individuals.

(b) The term “minor” means an individual who has not reached his majority as defined by the laws of the State of his domicile.

§ 115.2 Osage agency.

The provisions of this part do not apply to funds the deposit or expenditure of which is subject to the provisions of Part 117 of this subchapter.

§ 115.3 Individual accounts.

Except as otherwise provided in this part, adults shall have the right to withdraw funds from their accounts. Upon their application, or an application made in their behalf by the Secretary or his authorized representative, their funds shall be disbursed to them. All such disbursements will be made at such convenient times and places as the Secretary or his authorized representatives may designate.

§ 115.4 Minors.

(a) Funds, other than a per capita share of judgment funds which exceeds $100 in total amount at the time actual payment is made, including the investment income accruing thereto, of a minor may be disbursed in such amounts deemed necessary in the best interest of the minor for the minor’s support, health, education, or welfare to parents, legal guardians, fiduciaries, or to persons having the control and custody of the minor under plans approved by the Secretary, or the minor directly, upon such conditions as the Secretary may prescribe. The Secretary will require modification of an approved plan whenever deemed in the best interest of the minor.

(b) A per capita share of judgment funds which exceeds $100 in total amount at the time actual payment is made, including the investment income accruing thereto, of a minor shall not be disbursed until the minor reaches 18 years of age. At that time, unless the minor is under legal disability, the minor shall be entitled to withdraw his judgment funds and accruing investment income as provided in § 115.3. If the minor is under legal disability upon reaching his majority, his judgment funds and accruing investment income thereon shall be handled pursuant to § 115.5.

[41 FR 48736, Nov. 5, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 115.5 Adults under legal disability.

The funds of an adult who is non compos mentis or under other legal disability may be disbursed for his benefit for such purposes deemed to be for his best interest and welfare, or the funds may be disbursed to a legal guardian or curator under such conditions as the Secretary or his authorized representative may prescribe.

§ 115.6 Voluntary deposits.

As a general rule, voluntary deposits shall not be accepted. Indians who require banking service shall be encouraged to utilize commercial facilities. If in any case it is determined that an exception to this prohibition should be made to avoid a substantial hardship, the facts in the case shall be considered by the Secretary or his authorized representative and an exception will be allowed or denied.

§ 115.7 Payments by other Federal agencies.

Moneys received from the Veterans Administration or other Government agency pursuant to the act of February 25, 1933 (47 Stat. 907; 25 U.S.C. 14), may be accepted and administered for the benefit of adult Indians under
§ 115.8 Purchase orders.

Purchase orders may be issued only in emergencies upon the request of any account holder. The Secretary or his authorized representative may act in emergencies on behalf of an account holder who is unable to make a request because of illness or incapacity or, to meet expenses of last illness or funeral.

§ 115.9 Restrictions.

Funds of individuals may be applied by the Secretary or his authorized representative against delinquent claims of indebtedness to the United States or any of its agencies or to the tribe of which the individual is a member, unless such payments are prohibited by acts of Congress, and against money judgments rendered by courts of Indian offenses or under any tribal law and order code. Funds derived from the sale of capital assets which by agreement approved prior to such sale by the Secretary or his authorized representative are to be expended for specific purposes, and funds obligated under contractual arrangements approved in advance by the Secretary or his authorized representative or subject to deductions specifically authorized or directed by acts of Congress, shall be disbursed only in accordance with the agreements (including any subsequently approved modifications thereof) or acts of Congress. The funds of an adult whom the Secretary or his authorized representative finds to be in need of assistance in managing his affairs, even though such adult is not non compos mentis or under other legal disability, may be disbursed to the adult, within his best interest, under approved plans. Such finding and the basis for such finding shall be recorded and filed with the records of the account.

Cross Reference: For rules governing the payment of judgments from individual Indian money accounts, see § 112.30 of this chapter.

§ 115.10 Procedures relative to restrictions.

(a) If under § 115.9 an individual's access to funds in the individual's Indian money account is limited, or it is proposed to pay creditors, including creditors with judgments from Courts of Indian Offenses, for which preliminary procedures are prescribed in 25 CFR 11.26, the individual must be notified in writing as follows:

(1) The notice must be given to the individual affected at the commencement of the restriction or at least 40 days prior to involuntary distribution of funds from the account.

(2) The notice must state the reasons giving rise to the restriction or proposed payment.

(3) The notice shall inform the individual of the right to a hearing and that a request for a hearing must be in writing, received by the Secretary, or an authorized representative, within 30 days of receiving the notice of proposed action.

(4) The notice of proposed action shall be sent by Certified Mail-Return Receipt Requested. The date appearing on the returned receipt shall constitute the beginning of the restriction period.

(5) The notice shall state that a copy of the rights listed in paragraph (c) of this section are transmitted along with the notice.

(6) The notice shall advise that if the individual wishes to have the delinquent claim or money judgment paid without delay and without a hearing the individual can so request by signing a form furnished for that purpose with the notice.

(b) If the individual fails to request a hearing, the individual is deemed to consent to the continued limitation on and/or disbursement of funds from the IIM Account in accordance with the terms of the notice. Notwithstanding the continuance of a restriction on an account, if the amount of funds available in the account exceeds the amount of the restriction or the amount of the claim such unrestricted funds in excess of the amount of the restriction or claim shall be available for the account holder's use.
§ 115.11 Funds of deceased Indians other than the Five Civilized Tribes.

Funds of a deceased Indian other than those of the Five Civilized Tribes may be disbursed (a) for the payment of obligations previously authorized, including authorized expenses of last illness; (b) for authorized funeral expenses; (c) for support of dependent members of the family of decedent in such amounts deemed necessary to avoid hardship and consistent with the value of the estate and the interest of probable heirs; (d) for necessary expenses to conserve the estate pending the completion of probate proceedings; and (e) for probate fees and claims allowed pursuant to Part 15 of this chapter.


§ 115.12 Funds of deceased Indians of the Five Civilized Tribes.

Funds of a deceased Indian of the Five Civilized Tribes may be disbursed to pay ad valorem and personal property taxes, Federal and State estate and income taxes, obligations approved by the Secretary of his authorized representative prior to death of decedent, expenses of last sickness and burial and claims found to be just and reasonable which are not barred by the statute of limitations, costs of determining heirs to restricted property by the State courts, and claims allowed pursuant to Part 16 of this chapter.


§ 115.13 Assets of Members of the Agua Callente Band of Mission Indians.

(a) The provisions of this section apply to money or other property, except real property, held by the United States in trust for such Indians, which may be used, advanced, ex-
pended, exchanged, deposited, dis- 
deposited, invested, and reinvested by 
the Director, Palm Springs Office, in 
accordance with the Act of October 17, 
1968 (Pub. L. 90-597). The management 
or disposition of real property is 
covered in other parts of this chapter.

(b) Investments made by the Direct- 
or, Palm Springs Office, under the 
Act of October 17, 1968, supra, shall be 
of such a nature as will afford reason- 
able protection of the assets of the in- 
dividual Indian involved. The Director 
is authorized to enter into contracts 
for the management of the assets 
(except real property) of individual In- 
dians. The consent of the individual 
Indian concerned must be obtained 
prior to the taking of actions affecting 
his assets, unless the Director deter- 
mines, under the provisions of section 
e) of the Act, that consent is not re-
quired.

c) The Director may, consistent 
with normal business practices, estab- 
lish appropriate fees for reports he re- 
quires from guardians, conservators, 
or other fiduciaries appointed under 
State law for members of the Band.

[33 FR 16536, Nov. 15, 1968. Redesignated at 
47 FR 13327, Mar. 30, 1982 and further re-
designated at 51 FR 2874, Jan. 22, 1986]

§ 116.14 Appeals.

Appeals from an action taken by an 
oficial of the Bureau of Indian Af- 
fairs may be taken pursuant to 25 
CFR Part 2, subject to the terms of 
§ 115.10(c) (2).

[51 FR 2874, Jan. 22, 1986]

§ 115.15 Information collection.

This rule does not contain informa-
tion collection requirements which re-
quire approval by the Office of Man-
gement and Budget under 44 U.S.C. 
3501 et seq.

[51 FR 2875, Jan. 22, 1986]

PART 16—CREATION OF TRUSTS FOR 
RESTRICTED PROPERTY OF INDI- 
ANS, FIVE CIVILIZED TRIBES, 
OKLAHOMA

Sec.
116.1 Application for trust.
116.2 Obligations of trust company.