Title 25
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With ancillaries

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and of revising such value from time to time, as the judgment of the Secretary may dictate. Additional or substitute security may be required at any time when deemed necessary for the protection of the trust estate and the interest of the Indians. Officers pledging United States bonds or notes as security shall execute an instrument prescribed by the Secretary to effectuate resolution and power-of-attorney authorizing the sale or exchange of such bonds and notes in case of default. Only those Corporation security holders who hold certificates of authority from the Secretary of the Treasury to write bonds on which the United States is chancery as sureties shall be acceptable as sureties. The cost to the trustee, if any, of furnishing the required bond will be reimbursed as a necessary part of the cost of administering the trust and as such deductible from the gross income accruing therefore.

§ 107.9 Trustee's compensation.

As compensation for administering the trust the trustee will be permitted to receive annually not to exceed 5 percent of the gross annual income from such trust estate, and as further compensation will also be permitted to receive an equal 5 percent of such taxes as are levied for the purposes of the corporation of the trust estate, to be paid out of the income first accruing therefrom, and not to exceed an amount equal to 2 percent of the number of the estate at the time of final distribution, based upon the last valuation made by the Secretary of the Interior prior to such distribution. By final distribution is meant any distribution to a beneficiary of any part of the corpus of the estate at any time under the terms of the trust. All fees and expenses incurred in the performance of the duties of the trustee are to be performed by the corporation in question, as is within the discretion of the Secretary of the Interior.

§ 107.10 Necessary forms.

In addition to the form of application by the Indians under the act of January 27, 1933 (47 Stat. 777), there are skeleton forms of agreement and bond which are subject to such changes as may be necessary to meet the requirements of each particular case.

§ 107.11 Limit restricted property in trust.

Not more than three million dollars aggregate value of restricted Indian property shall be placed in trust pursuant to the regulations in this part, with any one trustee, trust company or other banking institution authorized by law to act as such.

§ 107.12 Amendments.

The regulations in this part may be changed, amended, added to, and any part thereof eliminated at any time by the Secretary of the Interior.

PART 108—DEPOSIT AND EXPENDITURE OF INDIVIDUAL FUNDS OF MEMBERS OF THE OSAKE TRIBE OF INDIANS WHO DO NOT HAVE CERTIFICATES OF COMPETENCY.

§ 108.2 Payment of taxes of adult Indians.

(1) The quarterly payment in an amount not to exceed $1,000.

(2) The rentals and income from re-stricted funds owned by the Indian.

(3) The rentals and income from restricted funds owned by the minor children of the Indian, as provided in § 108.3.

(4) Dividends from investments.

(5) Interest on deposits to the credit of the Indian.

(6) "Segregated trust funds" means those moneys held in the United States Treasury at the request of the Indian in which each represents a share of the segregated tribal trust funds and the proceeds of the partition of restricted lands.

§ 108.3 Payment of taxes of adult Indians.

The Superintendent may cause to be paid out of any money herefore accrued or hereafter accruing to the credit of any Indian estate all taxes of every kind and character for which such Indian is or may become liable before paying to or for such person any fund as required by law. All checks in payment of taxes shall be made payable to the proper collector of taxes. The purpose of establishing a fund with which to pay the said taxes is to make it possible to pay the taxes of the Indian at the time the tax is due, the Superintendent may cause the funds of adult Indians to be hypothecated in the following manner:

(1) For the payment of all income taxes, one-fourth of the estimated amount of all income from each quarter until the proceeds of all quarterly payments would cause the obligation of more than 25 percent of such quarterly payments, in which event the necessary additional funds shall be retained from other allowance funds payable to such person.
§ 108.5 Procedure for hearings to assist in supervision of expenditure of Indian funds.

(a) Whenever the superintendent has reason to believe that an Indian is wasting or squandering his allowance funds, the superintendent may cause an investigation and written report of the facts to be made. The report shall show that the Indian is wasting or squandering his allowance funds. The following notice shall be served upon the Indian in person or by registered mail, and a copy thereof shall likewise be served upon the Indian if he is under guardianship:

Section 1 of the act of February 27, 1895 (43 Stat. 1060) provides in part as follows:

"All payments to adults having certificates of competency, including sums paid to the minor, shall, in the case of the interior funds, be made to the person named in the certificate of competency, and in the case of the exterior funds, to the person named in the certificate of competency or the guardian of the minor." The certificate of competency shall be filed with the Secretary of the Interior.

(b) For the payment of income tax, one-half of the estimated amount of income tax to be imposed under this section shall be paid to each Indian, and additional funds shall be paid at intervals of six months to the Indian being paid.

(2) Whenever funds are withheld for the purpose of establishing a fund to defray the costs of maintaining the Indian, the Indian shall be notified of the action taken.

§ 108.6 Allowance for minors.

The superintendent may disburse from the surplus funds of an Indian under 21 years of age not to exceed $500 quarterly for the support and maintenance of the minor. Disbursement may be made to the minor, guardian, or other person, school or institution having actual custody or control of the minor. The notice of the decision of the Commissioner shall be furnished all interested parties.

§ 108.7 Disbursement of surplus funds.

Except as provided in § 108.5, all surplus funds shall be disburse to the Indian owner unless the Indian owner directs otherwise in writing. At the request of the Indian owner, such funds may be retained by the superintendent as voluntary deposits subject to withdrawal on demand or direction of the Indian owner. The superintendent may establish a power of attorney executed by the Indian and may disburse the allowance funds of the Indian in conformity therewith so long as the power of attorney remains in force and effect.

§ 108.8 Purchase of land.

The title to which has been examined and accepted by the general attorney for the Osage Indians or other legal officer designated by the Commissioner. In cases where title must be taken, by deed containing a clause restricting alienation or encumbrance without the consent of the Commissioner or his authorized representative.

§ 108.9 Construction and repairs.

Upon written application by an adult Indian, the superintendent may disburse not to exceed $5,000 during any one fiscal year from the surplus funds of such Indian to make repairs and improvements to restricted real property and in addition not to exceed $5,000 for the purchase of property. When such expenditures are being made on property producing income, reimbursement shall be required from such income unless otherwise directed by the Commissioner. When an Indian requests a loan for the purchase of property, any loan shall be held to defray the cost of repairs necessary to prevent restricted property, the superintendent may, when authorized by the Commissioner, expend the surplus funds of the Indian for such repairs.

§ 108.10 Purchase of automotive equipment.

The superintendent may purchase from the surplus funds of an adult Indian not to exceed $2,000 for the purchase of automotive equipment when the Indian serves in writing to carry property and liability insurance on the automotive equipment and to reimburse his surplus funds within 24 months. No disbursement of surplus funds for the purchase of automotive equipment shall be made if the fulfillment of the reimbursable agreement will reduce the amount of taxes, insurance or other obligations, or result in the inability of the Indian to meet his current living expenses from surplus funds.

§ 108.11 Insurance.

The superintendent may obtain policies of insurance covering the restricted property, real or personal, of minor Indians and pay the premiums thereon from surplus funds. Upon application by an adult Indian the superintendent may procure insurance on any restricted property, real or personal, owned by the applicant and pay the necessary premiums from his surplus or allowance funds. When authorized by
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§ 108.12 Costs of recording and conveying.

The Superintendent may expend the surplus funds of an Indian to make direct payment of recording fees and costs, of conveying, including abstracting costs, which are properly payable by the Indian.

§ 108.13 Telephone and telegraph messages.

The Superintendent may expend the surplus funds of an Indian to make direct payment of telephone and telegraph messages sent by the agency or received at the agency at the instance of the Indian or his guardian or attorney.

§ 108.14 Miscellaneous expenditure of surplus funds.

Upon application by an adult Indian, the Superintendent may disburse the surplus funds of such Indian for the following purposes:

(a) Medical, dental, and hospital expenses for the applicant or a member of his family, not to exceed one thousand dollars ($1,000) during any one fiscal year.

(b) Funeral expenses, including the funeral feast of a deceased member of his family, in an amount not to exceed five hundred dollars ($500).

(c) A tombstone or monument to mark the grave of a deceased member of his family in an amount not to exceed five hundred dollars ($500).

(d) Court costs in any judicial proceeding to which the applicant is a party.

(e) Bond premiums, except for bail and supervised bail, not to exceed five hundred dollars ($500).

(f) For miscellaneous purposes, not to exceed five hundred dollars ($500) during any one fiscal year.

§ 108.15 Collections from insurance companies.

Moneys collected from insurance companies for loss or damage to restricted real or personal property shall be deposited to the credit of the Indian or his guardian or ward.

§ 108.16 Reimbursement to surplus fund.

When expenditures have been made from surplus funds upon the condition, and with the written agreement of the Indian, that reimbursement or repayment shall be made from future allowance funds, the Superintendent shall be authorized to withhold from succeeding quarterly payments or other allowance funds such amounts as may be necessary to effect reimbursement within a period not exceeding 24 months from date of the first expenditure under the given authorization.

§ 108.17 Inactive surplus funds

When the balance of surplus funds to the credit of an adult Indian is less than $300 and when there is no likelihood of its increase within 90 days, the Superintendent may disburse the entire balance to the Indian owner for his unrestricted use.

§ 108.18 Withdrawal and payment of segregated trust funds.

The withdrawal and payment of segregated trust funds will be made only upon application and satisfactory evidence that the withdrawal and payment of such funds would be to the best interest of the Indian in view of all the circumstances shown to exist. The application for withdrawal of funds by a guardian under guardianship or an Indian under 21 years of age shall not be released and paid except to a guardian appointed by a court and after the filing of a bond in an amount determined by the court, conditioned for the faithful performance of the duties of a guardian. Applications for the withdrawal and payment of segregated trust funds must be made upon the forms prescribed by the Secretary for that purpose.

§ 108.19 Debts of Indians.

No indebtedness of Indians will be paid from their funds under the control of the Superintendent unless authorized in writing and obligated against the fund by the Superintendent or some other designated employee except in cases of emergency involving the protection or preservation of life or property, which emergency must be clearly shown.

§ 108.20 Purchase orders.

Purchase orders may be issued by the Superintendent for expenditures authorized by the regulations in this part or for expenditures specifically authorized by the Commissioner. When necessary to prevent hardship or suffering, purchase orders may be issued by the Superintendent against the future income of an Indian in an amount not to exceed 80 percent of the anticipated quarterly payment. The payment, of purchase orders issued against future income shall be charged against the availability of funds.

§ 108.21 Fees and expenses of attorneys.

When payment of an attorney fee for services to an Indian is to be made from surplus funds, the employment of the attorney by the Indian must be approved in advance. All fees will be determined on a quantum meruit basis and paid upon completion of the services.

The Superintendent may approve the employment of an attorney, determine, debit, and disburse the surplus funds of the Indian in payment thereof under the fee not exceeding $500. Upon application by the Indian and upon the presentation of properly authenticated vouchers, the Superintendent may disburse the surplus funds of the Indian in an amount not to exceed $500 in payment of necessary expenses incurred by the attorney.

§ 108.22 Disbursements to legal guardians.

Any disbursement authorized to be made to an Indian by the regulations of this part may, when the Indian is under guardianship, be made by the Superintendent to the guardian. All expenditures by a guardian of the funds of his ward must be approved in writing by the court and the Superintendent.

§ 108.23 Transactions between guardian and ward.

Business dealings between the guardian and his ward involving the sale or purchase of any property, real or personal, by the guardian to or from the ward, or to or from any store, company or organization in which the guardian has a direct interest or concern or contrary to the policy of the Department shall not be approved by the Superintendent without specific authority from the Commissioner.

§ 108.24 Compensation for guardians and their attorneys.

(a) The Superintendent may approve compensation for services rendered by the guardian of an Indian on an annual basis, the amount of the compensation to be determined by application of the following schedule to the moneys collected by the guardian:

First $1,000 or portion thereof, not to exceed 10 percent.
Second $1,000 or portion thereof, not to exceed 6 percent.
Third $1,000 or portion thereof, not to exceed 4 percent.
Fourth $1,000 or portion thereof, not to exceed 7 percent.
Fifth $1,000 or portion thereof, not to exceed 6 percent.
Sixth $1,000 or portion thereof, not to exceed 5 percent.
Seventh $1,000 or portion thereof, not to exceed 4 percent.
Eighth $1,000 or portion thereof, not to exceed 3 percent.
Ninth $1,000 or portion thereof, not to exceed 2 percent.
Tenth $500 or portion thereof, not to exceed 1 percent.

(b) Balance carried forward from previous reports and moneys received by a guardian or his attorney as compensation shall be excluded in determining the compensation of the guardian or his attorney.

(c) The compensation of a guardian shall be allowed compensation in an amount equal to one-half of the amount allowed the guardian under the foregoing schedule when such attorney is himself the guardian and acting as his own attorney, in which event he shall be allowed a fee of not to exceed one-fourth of the amount allowed the guardian under the foregoing schedule in addition to his compensation.

(d) The Superintendent may in his discretion permit the guardian to collect rentals from restricted city or town properties belonging to his ward.

§ 108.25 Charges for services to Indians.

The Superintendent shall make the following charges for services to Indians: Five per cent of all interest and non-liquidating dividends received from all types of securities, including stocks,
bons, and mortgages held in trust for individual Indians and interest on group investments. Such fees shall be deposited in the Treasury of the United States to the credit of the fund "Proceeds of Oil and Gas Leases, Royalties, etc., Osage Reservation, Oklahoma".

§ 108.26 Expenses incurred pending qualification of an executor or administrator.

Pending the qualification of the executor or administrator of the estate of a deceased Indian of one-half or more Indian blood who died without a certificate of competency at the time of his death, the superintendent may authorize the extension of credit for the following purposes, subject to allowance of claims by the executor or administrator and approval thereof by the court:

(a) Necessary expenses incurred in the settlement of the estate during the cost of a funeral feast, in an amount not to exceed $1,000.
(b) Necessary expenses in hearings before the Osage Agency involving the approval or disapproval of wills and testaments.
(c) Expenses necessary to preserve restricted property.

§ 108.27 Custody of funds pending administration of estates.

(a) Estates of Indians of less than one-half Indian blood and estates of Indians who had certificates of competency at the death of an Indian of less than one-half Indian blood or an Indian who had a certificate of competency, the superintendent shall pay to the executor or administrator of the estate all moneys and securities, other than segregated trust funds, to the credit of the Indian and all funds which accrue pending administration of the estate.

(b) Estates of Indians of one-half or more Indian blood who did not have certificates of competency. Upon the death of an Indian of one-half or more Indian blood who did not have a certificate of competency at the time of his death, the superintendent shall pay to the executor or administrator of the estate all moneys and securities, other than segregated trust funds, to the credit of the Indian and all funds which accrue pending administration of the estate.

(c) Expenses of administration, including court costs, premium on bond of executor or administrator, transcript fees and appraiser fees.
(d) Living expenses incurred within 90 days immediately preceding the date of death of the Indian.
(e) Allowance for reasonable living expenses each month for 12 months to a surviving spouse who is entitled to participate in the distribution of the estate and who is in need of such support.
(f) Allowance for reasonable living expenses each month for 12 months for each child of the decedent under 21 years of age who is entitled to participate in the distribution of the estate and who is in need of such support.
(g) Insurance premiums and license fees on restricted property.
(h) Not to exceed $1,000 for the preservation and upkeep of restricted property, including the services of a caretaker when required by the superintendent or the executor or administrator of the estate.

§ 108.28 Payment of claims against estates.

The superintendent may disburse to the executor or administrator of the estate of a deceased Indian of one-half or more Indian blood who did not have a certificate of competency at the time of his death sufficient funds out of the estate to pay the following classes of claims approved by the court:

(a) Debts authorized by the superintendent during the lifetime of the Indian.
(b) Expenses incurred pending the qualification of an executor or administrator under authority contained in § 108.26.
(c) Expenses of administration, including court costs, premium on bond of executor or administrator, transcript fees and appraiser fees.
(d) Living expenses incurred within 90 days immediately preceding the date of death of the Indian.
(e) Allowance for reasonable living expenses each month for 12 months to a surviving spouse who is entitled to participate in the distribution of the estate and who is in need of such support.
(f) Allowance for reasonable living expenses each month for 12 months for each child of the decedent under 21 years of age who is entitled to participate in the distribution of the estate and who is in need of such support.
(g) Insurance premiums and license fees on restricted property.
(h) Not to exceed $1,000 for the preservation and upkeep of restricted property, including the services of a caretaker when required by the superintendent or the executor or administrator of the estate.

§ 108.29 Sale of improvements.

The superintendent may approve the sale of improvements on restricted Indian lands when such improvements are appraised at not more than $500 and when the owner has submitted a written request to be made and a statement that the improvements can no longer be used by him. The proceeds of such sales shall be deposited to the credit of the Indian as surplus funds. Improvements consisting of buildings, etc., located on land within the Osage villages of Pawhuska, Hominy, and Grayson may, upon approval of the superintendent, be disposed of by the Indian to non-Indian or non-Osage Indians.

§ 108.30 Sale of personal property.

The superintendent may disburse the surplus funds of the Indian to non-Indian or non-Osage Indians who may be approved by the Commissioner.

§ 108.31 Removal of restrictions from personal property.

The superintendent may relinquish title to personal property (other than livestock) held by the United States in trust for the Indian when to so do will enable the Indian to use the property as part payment in the purchase of other personal property and when the remainder of the purchase price is to be made from other than surplus funds of the Indian.

§ 108.32 Funds of Indians of other tribes.

The funds of restricted non-Osage Indians, both adults and minors, residing within the jurisdiction of the Osage Agency, derived from sources within the jurisdiction and collected by the Osage Agency, may be disbursed by the superintendent, subject to the condition that all payments to third persons, including taxes and insurance premiums, shall be made upon the written authorization of the individual whose funds are involved, if an adult, and upon the written authorization of the parent or guardian, if a minor. The funds of restricted non-Osage Indians who do not reside within the jurisdiction of the Osage Agency shall be transferred to the superintendent of the jurisdiction within which the Indian resides, to be disbursed under regulations of the receiving agency.

§ 108.33 Signature of Illegitimates.

An Indian who cannot write shall be required to endorse checks payable to his order and sign receipts or other documents by making an imprint of the ball of his thumb or his left index finger (if he has lost his right) after his name. This imprint shall be clear and distinct, showing the central whorl and stipples and witnessed by two reputable persons whose addresses shall be given opposite or following their names. An Indian may sign by marking "X" before two witnesses where he is unable to attach his thumb mark for physical reasons.

§ 108.34 Financial status of Indians confidential.

The financial status of Indians shall be regarded as confidential and shall not be disclosed except to the owner of the title or to any authorized agent, unless authorized in advance by the Commissioner.

§ 108.35 Appeals.

An appeal by the superintendent may be appealed to the area director; any decision of the area director may be appealed to the Commissioner, and any decision by the Commissioner may be appealed to the Secretary.