

Bureau of Indian Affairs, Interior

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forwarded to the Bureau of Indian Affairs, Washington, D.C., as soon as possible.

§ 112.5 Basis of distribution; pro rata shares.

In estimating the pro rata share of an individual, the last annuity payroll 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 1 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.

§ 112.6 Disposition of pro rata share in event of applicant's death.

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 the tribe. 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 segregation of his share, but before payment is made, his share will descend to his legal heirs and should be deposited to the credit of the estate pending formal determination thereof.

CROSS REFERENCE: For regulations pertaining to the determinations of heirs and approval of wills, see part 15 and §§11.30 through 11.32C of this chapter.

§ 112.7 Pro rata shares of minors.

The shares of minors will not be withdrawn except when necessary for their own benefit. The application should be signed by the parent or guardian and transmitted to the Bureau by the superintendent with his recommendation as in other cases and a full explanation of the circumstances which justify the withdrawal. Such shares will be deposited to the credit of the minors subject to expenditure under the individual Indian money regulations. The term "minor," as used in this section, shall be interpreted in conformity with the State law.

CROSS REFERENCE: For individual Indian money regulations, see part 115 of this chapter.

PART 114—SPECIAL DEPOSITS

Sec.

114.1 Purpose and scope.

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114.4 Payment and distribution of interest on special deposit funds.

114.5 Distribution of IMPL Escrow Account.

AUTHORITY: 25 U.S.C. 2; 25 U.S.C. 9; Pub. L. 97-100; and Pub. L. 97-257.

SOURCE: 48 FR 48808, Oct. 21, 1983, unless otherwise noted.

§ 114.1 Purpose and scope.

The purpose of these regulations is to set forth the conditions governing the deposit, investment, and distribution of interest on funds held by the Bureau in special deposits; and to provide procedures required for determination of ownership and distribution of funds which are on deposit in account 14X6703 "Indian Moneys Proceeds of Labor Escrow Account—Pending Determination of Ownership".

§ 114.2 Definitions.

(a) *Agency* means any field office of the Bureau officially designated as an Indian agency and which provides direct services at the local level to Indians and Indian tribes, who are recognized by the Bureau as eligible for federal services to Indians because of their status as Indians.

(b) *Agency IMPL Escrow Account* means that portion of the funds in 14X6703 identifiable to that agency.

(c) *Beneficiary* means a potential beneficiary who has signed an acceptance.

(d) *Bureau or BIA* means the Bureau of Indian Affairs, Department of the Interior.

(e) *Claimant* means an individual (or a tribe) who asserts an entitlement to a share of the IMPL Escrow Account but has not been determined as a potential beneficiary.

(f) *IMPL Escrow Account* means account 14X6703, Indian Moneys, Proceeds of Labor Escrow Account—Pending Determination of Beneficiaries, U.S. Treasury.

(g) *Potential beneficiary* means an individual or tribe determined eligible to share in the IMPL Escrow Account provided a proper acceptance is received

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on behalf of the individual or tribe involved.

(h) *Principal account* means each separate payment or deposit of money to the Bureau which is held as a special deposit.

(i) *Special deposit* means any suspense account used for the temporary deposit of funds which cannot be credited to specific accounts or readily distributed, including, but not limited to:

(1) Advance deposits;

(2) Advance deposits on other leases and permits for such Indian lands;

(3) Advance payments and advance deposits required on sales of timber and other natural resources from such Indian lands;

(4) Deposits for rights of way over such Indian lands and anticipated right-of-way damages held until such damages are determined; and

(5) Deposits for grazing fees on such Indian lands.

(j) *Special deposit funds* means those funds held in special deposits.

(k) *Superintendent* means the Bureau official in charge of a Bureau agency.

§ 114.3 Investment of special deposit funds.

It is the policy of the Bureau to invest all special deposit funds which have been paid to the Bureau on behalf of Indians or Indian tribes pending the eventual payment for the sale, lease, or other transfer of tribal or individual Indian property and funds which are deposited solely for the purpose of guaranteeing performance.

§ 114.4 Payment and distribution of interest on special deposit funds.

(a) It is the general policy of the Bureau that interest and earnings from the investment of special deposit funds be credited to the principal accounts upon which the interest was earned.

(b) At the time that a withdrawal is made from a special deposit account, the interest earned by the principal account being withdrawn will be computed and withdrawn from the account as a part of the same transaction. The interest earned by the subject principal amount will be computed into two parts:

(1) The portion of interest credited during the prior interest period which was attributable to this principal, and

(2) The portion of interest which has been earned by this principal amount but has not yet been credited to the account because the interest period is not complete. This will be computed by using the month-end balances since the last interest period times the last period's factor.

(c) No interest will be distributed to accounts which have less than the minimum average month-end balances as determined by the Division of Accounting Management. Any such interest not distributed would remain in the undistributed interest account at the Bureau level to be included in determining the next six month interest factor.

§ 114.5 Distribution of IMPL Escrow Account.

(a) *Determination of potential beneficiaries.* Each agency will determine the potential beneficiaries and their respective shares of the IMPL Escrow Account at that agency by the following method:

(1) Identify the unobligated balance in the agency IMPL account as of September 30, 1982, and interest accrued for the period ending September 30, 1982, which has subsequently been transferred into account 14X6703 IMPL Escrow Account Pending Determination of Ownership. This amount will be called the agency IMPL Escrow Account balance.

(2)(i) Identify the length of time which has been required to accumulate actual income into the former IMPL account to equal the current agency IMPL Escrow Account balance.

(ii) To determine the beginning date for ownership computations, subtract the length of time identified in paragraph (a)(2)(i) of this section from April 1, 1981. (Subsequent to April 1, 1981, interest earned on special deposits has been credited directly to each special deposit account rather than to an IMPL account.)

(3) Examine the Individual Indian Money (IIM) accounts to determine the

total dollars transferred to each account from the principal in special deposit accounts during the period identified in paragraph (a)(2) of this section.

(4) Examine tribal treasury account records to determine the total dollars transferred to each tribal trust account from the principal in special deposit accounts during the period identified in paragraph (a)(2) of this section.

(5) Determine the percentage of the principal transferred from special deposit accounts into each IIM and tribal trust account. This is done by dividing the total amount of principal transferred from special deposit accounts into all accounts at the agency into the total computed for each IIM and tribal trust account pursuant to paragraphs (a)(3) and (a)(4) of this section. The formula is as follows:

$$\frac{\text{Dollars transferred into an account}}{\text{Total dollars transferred by agency into all accounts}} = \text{Percent share for that account}$$

(6) Multiply this percentage by the agency IMPL Escrow Account balance to determine each potential beneficiary's share of that balance. Should this determined share be less than ten dollars (\$10.00) no transfer of funds will be made.

(7) The formula identified in paragraph (a)(5) of this section will be used in determining potential shares unless there are clear and available records at the agency level to identify specific amounts. If the records are used by the agencies they must be made available for public review upon request.

(b) *Notification of determination of potential beneficiaries.* Upon completion of the determination of all potential beneficiaries of an agency IMPL Escrow Account, the Superintendent shall publish a general notice which shall contain the following:

- (1) Brief history of agency IMPL Escrow Account;
- (2) Explanation of method of determination of potential beneficiaries;
- (3) Information on availability of specific data;
- (4) Instruction to potential beneficiaries on completion of acceptance forms, explaining that only those who

complete the acceptance forms can receive any funds; and

(5) Establishment of deadline date by which potential beneficiaries must complete the acceptance forms to receive the funds. This deadline will be 180 days from the date of the general notice. This general notice shall be published in the usual and customary manner for making public such documents. If such usual and customary publication does not include posting on the agency bulletin board and publication in at least one local newspaper of general distribution, the posting on the bulletin board and local newspaper publication shall be done in addition to the usual and customary manner of publication.

(c) *Acceptance by potential beneficiary.* Before the funds identified in paragraph (a) of this section as transferable to a potential individual or tribal beneficiary can be deposited into that potential beneficiary's account the following must be completed:

(1) The potential beneficiary must sign an acceptance of the determination by the Secretary which shall constitute a complete release and waiver of any and all claims by the potential beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982.

(2) The acceptance must be signed during the 180 days between the date of the general notice provided for in paragraph (b) of this section and the deadline date established therein.

(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 BIA to reimburse the BIA for administrative expenses incurred in determining ownership of the 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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AUTHORITY: R.S. 441, as amended, R.S. 463, R.S. 465; 5 U.S.C. 301; 25 U.S.C. 2, 9; 43 U.S.C. 1457.

SOURCE: 23 FR 7942, Oct. 15, 1958, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 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.