Estate Planning

DOI is responsible for probating and distributing all trust assets when a beneficiary passes away. If a beneficiary dies without a will (or intestate), DOI staff must determine the rightful heirs and distribute trust assets among them in accordance with applicable laws. Often beneficiaries have trust assets in more than one state. The American Indian Probate Reform Act of 2004 (AIPRA) allows Indian trust assets to be distributed to heirs based on one federal probate code or tribal code, rather than multiple state codes. The law also helps facilitate the consolidation of fractionated trust assets by making it easier for people to transfer assets and by implementing a single-heir inheritance rule. This single-heir rule only applies if an account holder owns a highly fractionated asset (less than five percent ownership) and dies without a will.

OST is working with various non-profit legal organizations to provide information to beneficiaries regarding the impact of AIPRA. If a beneficiary does not have a will, or his or her trust assets will pass to his or her heirs based on either federal or tribal laws. However, having a valid, written will gives a beneficiary the ability to distribute trust property to whomever he or she chooses.

One of the main purposes of AIPRA is to preserve the trust status of Indian lands and to reduce the number of small fractionated interests. It offers an opportunity for individuals to determine how and when they want to distribute their trust assets. Through estate planning, individuals may wish to create a will or sell, transfer, or otherwise consolidate their interests in trust or restricted land.

Individual Indian Money (IIM) accounts are different than bank accounts. In general, you cannot close your IIM account because your funds are tied to a trust asset that may continue to earn income. However, if you do not wish to have an IIM account, you may be able to deed your trust interest to another party. Some people choose this option to assist with the problem of highly divided interests in a parcel of land (fractionation).

Note: AIPRA does not apply to trust or restricted property in (fractionation).

Fractionation

Fractionation, or the extreme division of ownership in a parcel of land, is the product of federal Indian policies of the late 19th century. Fractionation is the result of land passing from one generation to the next, and more and more owners acquiring an undivided interest in the land. Because of early inheritance laws and probate codes, it is common to have hundreds, even thousands, of Indian owners for one parcel of land. Fractionation is often the reason a beneficiary receives a very small payment in his or her account. For example, a hundred years ago, a sixty-acre parcel of land was held in trust for one couple with three children. If each of those three children had three or more children, and so on for four generations, those sixty acres could now be held in trust for more than three hundred people. Each shoved full of dirt from that land is owned by all three hundred owners. If you divide a lease payment of $1,000 a year among three hundred heirs, each beneficiary may receive a distribution for $3.33.

Tribe and DOI are working on solutions to this massive problem. In late 2012, DOI initiated the Land Buy-Back Program for Tribal Nations, as dictated by the Cobell Settlement agreement. Using the $1.8 billion settlement, the program is addressing fractionation by purchasing fractional interests in allotted lands from willing sellers. By transferring those interests to the tribies, the program supports the goal of consolidating land ownership and increasing the likelihood of productive economic use of the land.

If you would like more information about the program, please visit www.doi.gov/buybackprogram, or check with your Fiduciary Trust Officer. Locate your FTO online at www.doi.gov/fto. Fractionation is the most difficult problem in Indian trust management today, as it can render trust land economically useless to beneficiaries and creates volumes of red tape for potential lessees.

Finding Indian Trust Account Holders: Whereabouts Unknown

Tens of thousands of Individual Indian Money account holders do not know they have a trust account. Some of these accounts have more than $100,000 in them. OST is looking for “Whereabouts Unknown” individuals in order to distribute their Indian trust funds to them.

There are many reasons people’s names are added to the Whereabouts Unknown list. When a person dies, his or her assets may go to his or her heirs. Many times those heirs are not living in the area and no one knows where they are. Often people move and forget to notify OST, especially if they don’t have an active account at the time they move.

Beneficiaries should advise OST if there is a name change due to marriage. A copy of the marriage license will be requested. If a name change is the result of a divorce, adoption, or court order, the beneficiary will be asked to provide a copy of the court order or decree.

To search for names on the Whereabouts Unknown list, go to the OST website at www.doi.gov/ost/wau and click on the letters or use the search box to look up names.

If you know an account holder on the list, please contact OST with the following information:

- Name of account holder (first name, middle initial, last name)
- Current address
- Telephone number

Contact OST

There is an efficient and easy way to get answers to questions about your trust assets. The OST Trust Beneficiary Call Center (TBCC) is a central location for questions and answers so you receive prompt, consistent information. If OST’s trained representatives cannot answer your question immediately, they will gather information from you, then check and follow-up to make sure you are provided a response as quickly as possible.

OST Fiduciary Trust Officers (FTOs) serve as primary points of contact for trust beneficiaries. FTOs are located across Indian country and frequently hold local outreach meetings to provide this trust information. If you have questions, please visit the TBCC website at www.doi.gov/fto or contact the TBCC.

TBCC

Toll free, 1-888-678-6836

Monday – Friday 7 a.m. to 6 p.m.
Saturday 8 a.m. to Noon, Mountain Time

OST Office of External Affairs

Rev. July 24, 2017
Money comes into the trust through a variety of sources:

- Royalty income received by members of the Osage mineral trust
- Royalty, rent and other fees
- Estate accounts
- Income payments
- Investment income


total assets are distributed.

Your Trust Account Statement

Account statements are generally mailed to Indian trust beneficiaries on a quarterly basis. These statements include account activity for the past quarter and contain information such as the account balance at the beginning of the quarter and dividend and interest disbursements, and the balance at the end of the quarter.

If you receive income from an oil or gas asset, you will also receive an explanation of payment that includes the nature of the asset, the amount of each payment, the amount of each payment that is interest income, and the tax information for the payment.

IIM accounts are established for individual trust beneficiaries. These accounts can be created for a number of reasons. Generally, income derived directly from restricted land held in trust by the U.S. Government is exempt from federal and state taxation. The amount of oil and gas related interest income earned in IIM accounts may fluctuate each year based on the length of time the oil and gas companies have underpaid. Therefore, please review the explanation of payment you receive to identify how much of each payment is interest income.

This is reported in the “Summary Box” in the top right corner of the form:

- Royalty income received by members of the Five Civilized Tribes of Oklahoma is subject to federal and state taxation.
- Estate accounts are established when OST receives notice that the trust account holder has died. Funds in unrestricted accounts are disbursed to the account holder's heirs or beneficiaries within 60 days of death if the account balance exceeds $150 or more. However, if you receive an oil and gas payment, you will receive a disbursement if the payment is $5 or more.

Income Subject to Taxation

Generally, income derived directly from restricted land held in trust by the U.S. Government is exempt from federal and state taxation for individual Indians. However, all interest income, capital gain income, and certain royalty and other income is subject to federal and state taxation.

Today, you may be able to receive your funds through direct deposit to your financial institution or you may choose to have your trust fund disbursements sent to you in check. If you receive a 1099 report form, please consult your tax professional for advice on how these forms may affect your income tax return.