

a payment will not be recognized. Superintendents will note in the "Remarks" column on the roll the date of birth of each new enrollee and the date of death of deceased annuitants.

**§ 111.4 Election of shareholders.**

An Indian holding equal rights in two or more tribes can share in payments to only one of them and will be required to elect with which tribe he wishes to be enrolled and to relinquish in writing his claims to payments to the other. In the case of a minor the election will be made by the parent or guardian.

**§ 111.5 Future payments.**

Indians who have received or applied for their pro rata shares of an interest-bearing tribal fund under the act of March 2, 1907 (34 Stat. 1221; 25 U.S.C. 119, 121), as amended by the act of May 18, 1916 (39 Stat. 128), will not be permitted to participate in future payments made from the accumulated interest.

**PART 112—REGULATIONS FOR PRO RATA SHARES OF TRIBAL FUNDS**

Sec.

- 112.1 Fee simple patentees.
- 112.2 Applicants who have received neither fee simple patents nor certificates of competency.
- 112.3 Applicants who are mentally or physically incapable of managing their affairs.
- 112.4 Interest in pro rata shares not vested rights unless application approved.
- 112.5 Basis of distribution; pro rata shares.
- 112.6 Disposition of pro rata share in event of applicant's death.
- 112.7 Pro rata shares of minors.

AUTHORITY: Sec. 2, 34 Stat. 1221, as amended; 25 U.S.C. 121.

CROSS REFERENCE: For regulations pertaining to the determination of heirs and approval of wills, see part 15 and subpart G of part 11 of this chapter.

SOURCE: 22 FR 10549, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

**§ 112.1 Fee simple patentees.**

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 com-

petency, 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.

**§ 112.2 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:

- (a) Is the applicant living on this 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?
- (b) Is any part of his allotment leased? If so, to what extent does he depend upon the rent therefrom to support himself and family?
- (c) Has the applicant been given the privilege of leasing his own lands; and if so, with what result?
- (d) Has he an interest in any inherited land? If he has sold or leased any inherited land, how has he managed the proceeds?
- (e) Is the applicant of good moral character?
- (f) 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?
- (g) What is his physical condition?
- (h) Is the applicant in debt? If so, to what extent and for what purpose was the debt incurred?
- (i) Has the applicant the necessary business qualifications to enable him to manage his own affairs?
- (j) Give such other information concerning the applicant as will aid the office in determining whether or not to approve his application.

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(k) Make a specific recommendation for the approval or disapproval of the application.

### § 112.3 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:

- (a) Sex and exact date of birth.
- (b) Identify the applicant by allotment and last annuity-roll numbers.
- (c) What is the actual physical condition of the applicant. If suffering from disease, submit certificate of physician if necessary to establish disability.
- (d) What is the actual mental condition of the applicant? Answer fully.
- (e) What are the material resources of the applicant?
- (f) What advantages will accrue to applicant by withdrawal of his or her share at this time?
- (g) 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?
- (h) Make a specific recommendation for the approval or disapproval of the application.

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

[22 FR 10549, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 48 FR 13414, Mar. 31, 1983]

### § 112.4 Interest in pro rata shares not vested rights unless application approved.

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 an 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 Bureau 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 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 [RESERVED]**

## **PART 115—TRUST FUNDS FOR TRIBES AND INDIVIDUAL INDIANS**

### **Subpart A—Purpose, Definitions, and Public Information**

Sec.

- 115.001 What is the purpose of this part?
- 115.002 What definitions do I need to know?

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- 115.101 Individual accounts.
- 115.102 Adults under legal disability.
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### **Subpart C—IIM Accounts: Minors**

- 115.400 Will a minor’s IIM account always be supervised?
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- 115.402 Will a minor have access to information about his or her account?
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- 115.408 May a minor’s supervised account have more than one address on file with the BIA?
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- 115.410 What types of identification will the BIA or OTFM accept as “verifiable photo identification”?
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- 115.412 Will child support payments be accepted for deposit into a minor’s supervised account?
- 115.413 Who may receive funds from a minor’s supervised account?
- 115.414 What is an authorized disbursement request?
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- 115.416 Will the United States post office forward mail regarding a minor’s supervised account to a forwarding address left with the United States post office?
- 115.417 What portion of funds in a minor’s supervised account may be withdrawn under a distribution plan?
- 115.418 What types of trust funds may a minor have?
- 115.419 Who develops a minor’s distribution plan?
- 115.420 When developing a minor’s distribution plan, what information must be considered and included in the evaluation?
- 115.421 What information will be included in the copy of the minor’s distribution plan that will be provided to OTFM?
- 115.422 As a custodial parent, the legal guardian, the person who BIA has recognized as having control and custody of the minor, or an emancipated minor, what are your responsibilities if you receive trust funds from a minor’s supervised account?
- 115.423 If you are a custodial parent, a legal guardian, or an emancipated minor, may BIA authorize the disbursement of funds from a minor’s supervised account without your knowledge?
- 115.424 Who receives a copy of the BIA-approved distribution plan and any amendments to the plan?
- 115.425 What will we do if we find that a distribution plan has not been followed or an individual has acted improperly in regard to his or her duties involving a minor’s trust funds?
- 115.426 What is the BIA’s responsibility regarding the management of a minor’s supervised account?
- 115.427 What is the BIA’s annual review process for a minor’s supervised account?
- 115.428 Will you automatically receive all of your trust funds when you reach the age of 18?
- 115.429 What do you need to do when you reach 18 years of age to access your trust funds?
- 115.430 Will your account lose its supervised status when you reach the age of 18?
- 115.431 If you are an emancipated minor may you withdraw trust funds from your account?