

Bureau of Indian Affairs, Interior

§ 15.2

Federal Regulations, Part 4, Subpart D; Funds of deceased Indians other than the Five Civilized Tribes, see Title 25 Code of Federal Regulations, Part 115.

SOURCE: 66 FR 7089, Jan. 22, 2001, unless otherwise noted.

Subpart A—Introduction

§ 15.1 What is the purpose of this part?

This part contains the procedures that the Secretary follows to initiate the probate of the trust estate of a deceased individual Indian who owned trust or restricted property. This part tells you how to file the necessary documents to probate the trust estate. This part also describes how probates will be processed by the BIA, and how probates may be sent to the OHA for disposition.

§ 15.2 What terms do I need to know?

ALJ means an administrative law judge or other employee of the Department of the Interior's Office of Hearings and Appeals (OHA) upon whom authority has been conferred by the Secretary to conduct hearings in accordance with 43 CFR Part 4 Subpart D.

BIA means the Bureau of Indian Affairs within the Department of the Interior.

IIM account means Individual Indian Money Account.

LTRO means the Land Titles and Records Office within the BIA.

OHA means the Hearings Division, Office of Hearings and Appeals, Department of the Interior.

OTFM means the Office of Trust Funds Management, within the Office of the Special Trustee for American Indians, Department of the Interior, or its authorized representative.

Agency means the agency office or any other designated office in the BIA having jurisdiction over trust or restricted property and money. This term also means any office of a tribe which has contracted or compacted the BIA probate function under 25 U.S.C. § 450f or 25 U.S.C. § 458cc.

Attorney decision maker means an attorney with the BIA, who reviews a probate package, determines heirs, approves wills and beneficiaries of the will, determines creditors claims, and issues a written decision.

Beneficiary means any individual who receives trust or restricted property or money in a decedent's will.

Day means a calendar day, unless otherwise stated.

Decedent means a person who is deceased.

Deciding official means the official with the delegated authority to make a decision on a probate matter, and may include a BIA regional director, agency superintendent, field representative, or attorney decision maker (BIA deciding official); or an OHA ALJ or other OHA designated official (OHA deciding official).

Decision/order means a written document issued by the deciding official determining heirs, approving wills and beneficiaries of the will, approving creditors claims, and ordering distribution of property and money.

Domicile means the legal residence of the person.

Estate means the trust cash assets, restricted or trust lands owned by the decedent at the time of his death.

Form OHA-7 means a form issued by the OHA which lists data for heirship and family history, and provides information on any wills, trust and restricted property, adoptions, names and addresses of all interested parties.

Heir means any individual who receives trust or restricted property or money from a decedent in an intestate proceeding.

IIM account means funds held in an individual Indian monies account by the OTFM or a tribe performing this function under a contract or compact.

Interested parties means any probable or actual heir, any beneficiary under a will, any party asserting a claim against a deceased Indian's estate, and any tribe having a statutory option to purchase the trust or restricted property interest of a decedent.

Intestate means the decedent died without a will.

Minor means an individual that has not reached age of majority as defined by the applicable tribal or state law.

Probate means the legal process by which applicable tribal law, state law, or federal law that affects the distribution of the decedent's estate is applied to: (1) determine the heirs; (2) approve wills and beneficiaries; and (3) transfer