Bureau of Indian Affairs, Interior

§ 115.813 Under what conditions may a tribe redeposit funds with OTFM that were previously withdrawn under the Trust Reform Act?

Tribal trust funds withdrawn under the Trust Reform Act may be returned to OTFM under the following conditions:

(a) A tribe must make a written request to OTFM to redeposit all or part of the withdrawn trust funds;

(b) No tribal trust funds may be redeposited to a tribal trust account during the first six months after being withdrawn, except with the approval of the Secretary;

(c) Tribal trust funds may only be returned to OTFM a maximum of twice a year, except with the approval of the Secretary; and

(d) A tribe must return withdrawn trust funds in accordance with the requirements of the Trust Reform Act in 25 CFR, part 1200, subpart C.

§ 115.812 Is a tribe responsible for its expenditures of trust funds that are not made in compliance with statutory language or other federal law?

If a tribe’s use of trust funds is limited by statutory language or other federal law(s) and a tribe uses those trust funds in direct violation of those laws, absent an approved modification which allows for the expenditures, we will require the tribe to reimburse its trust fund account.

§ 115.813 Is there a limit to the amount of trust funds OTFM will disburse from a tribal trust account?

OTFM will only disburse the available balance of the trust funds in a tribal trust account in accordance with a use and distribution plan, if applicable, and will not overdraw a tribal trust account. If a tribe’s trust funds are invested in securities that have not matured, OTFM will only sell the asset to make cash available to the tribe if:

(a) There are no restrictions against the sale, and

(b) A tribe provides OTFM with a tribal resolution stating that:

(1) The security must be sold; and

(2) The tribe acknowledges that they may incur a penalty when the security is sold; and
§ 115.814 If a tribe withdraws money from its trust account for a particular purpose or project, may the tribe redeposit any money that was not used for its intended purpose?

A tribe may redeposit funds not used for a particular purpose or project if:

(a) The funds were withdrawn in accordance with:
(1) The terms of Trust Reform Act;
(2) The terms of the legislative settlement; or
(3) The terms of a judgment use and distribution plan; and

(b) The tribe can provide documentation showing the source of the funds to be redeposited.

§ 115.815 How does a tribe request trust funds from a tribal trust account?

To request trust funds from a tribal trust account, a tribe may:

(a) Make a written request to the BIA or the OTFM that is signed by the proper authorizing official(s), list the amount of trust funds to be withdrawn, provide any additional documentation or information required by law to withdraw certain trust funds, and must include a tribal resolution approving the withdrawal of the specified amount of trust funds; or

(b) Contact the OTFM to withdraw funds in accordance with the Trust Reform Act and 25 CFR part 1200.

§ 115.816 May a tribe’s request for a withdrawal of trust funds from its trust account be delayed or denied?

(a) Action on a tribe’s request for a withdrawal of trust funds may be delayed or denied if:
(1) The tribe did not submit all the necessary documentation;
(2) The tribe’s request is not signed by the proper authorizing official(s);
(3) OTFM does not have documentation from the tribe certifying its recognized, authorizing officials;
(4) The tribe’s request is in conflict with statutory language or the controlling document governing the use of the trust funds; or

(b) If action on a tribe’s request to withdraw trust funds will be delayed or denied, the BIA or the OTFM will:
(1) Notify the tribe within ten (10) working days of the date of a request made under §115.819(a); and
(2) Notify the tribe under the time frames established in 25 CFR part 1200 for requests made under the Trust Reform Act; and

(c) Provide technical assistance to the tribe to address any problems.

§ 115.817 How does OTFM disburse money to a tribe?

Upon receipt of all necessary documentation, OTFM will process the request for disbursement and send the tribe the requested amount of trust funds within one business day. Whenever possible, trust funds will be disbursed electronically to an account in a financial institution designated by the tribe. If there are circumstances that preclude electronic payments, OTFM will mail a check.

§ 115.818 What happens if an Indian adult does not cash his or her per capita check?

(a) If an Indian adult does not cash his or her per capita check within twelve (12) months of the date the check was issued, the check will be canceled and the trust funds will be deposited into a “returned per capita account” where the funds will be maintained until we receive a request for disbursement by the Indian adult or for disposition by a tribe pursuant to §115.820.

(b) If an Indian adult’s per capita check is returned to us as undeliverable, the trust funds will be immediately deposited into a “returned per capita account” where the funds will be maintained until we receive a request for disbursement by the individual or for disposition by a tribe pursuant to §115.820.