

SUBCHAPTER C—PROBATE

PART 15—PROBATE OF INDIAN ESTATES, EXCEPT FOR MEMBERS OF THE OSAGE NATION AND THE FIVE CIVILIZED TRIBES

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AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, 372-74, 410, 2201 *et seq.*; 44 U.S.C. 3101 *et seq.*

CROSS REFERENCE: For special rules applying to proceedings in Indian Probate (Determination of Heirs and Approval of Wills, Except for Members of the Five Civilized Tribes and Osage Indians), including hearings and appeals within the jurisdiction of the Office of Hearings and Appeals, see title 43, Code of Federal Regulations, part 4, subpart D, and part 30; Funds of deceased Indians other than the Five Civilized Tribes, see title 25 Code of Federal Regulations, part 115.

SOURCE: 73 FR 67278, Nov. 13, 2008, unless otherwise noted.

Subpart A—Introduction

§ 15.1 What is the purpose of this part?

(a) This part contains the procedures that we follow to initiate the probate of the estate of a deceased person for whom the United States holds an interest in trust or restricted land or trust personalty. This part tells you how to

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file the necessary documents to probate the estate. This part also describes how probates will be processed by the Bureau of Indian Affairs (BIA), and when probates will be forwarded to the Office of Hearings and Appeals (OHA) for disposition.

(b) The following provisions do not apply to Alaska property interests:

(1) Section 15.202(c), (d), (e)(2), (n), and (o); and

(2) Section 15.401(b).

[73 FR 67278, Nov. 13, 2008, as amended at 76 FR 7505, Feb. 10, 2011]

§ 15.2 What definitions do I need to know?

Act means the Indian Land Consolidation Act and its amendments, including the American Indian Probate Reform Act of 2004 (AIPRA), Pub. L. 108–374, as codified at 25 U.S.C. 2201 *et seq.*

Administrative law judge (ALJ) means an administrative law judge with the Office of Hearings and Appeals appointed under the Administrative Procedure Act, 5 U.S.C. 3105.

Affidavit means a written declaration of facts by a person that is signed by that person, swearing or affirming under penalty of perjury that the facts declared are true and correct to the best of that person's knowledge and belief.

Agency means:

(1) The Bureau of Indian Affairs (BIA) agency office, or any other designated office in BIA, having jurisdiction over trust or restricted land and trust personalty; and

(2) Any office of a tribe that has entered into a contract or compact to fulfill the probate function under 25 U.S.C. 450f or 458cc.

Attorney Decision Maker (ADM) means an attorney with OHA who conducts a summary probate proceeding and renders a decision that is subject to de novo review by an administrative law judge or Indian probate judge.

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

Child means a natural or adopted child.

Codicil means a supplement or addition to a will, executed with the same formalities as a will. It may explain,

modify, add to, or revoke provisions in an existing will.

Consolidation agreement means a written agreement under the provisions of 25 U.S.C. 2206(e) or 2206(j)(9), entered during the probate process, approved by the judge, and implemented by the probate order, by which a decedent's heirs and devisees consolidate interests in trust or restricted land.

Creditor means any individual or entity that has a claim for payment from a decedent's estate.

Day means a calendar day.

Decedent means a person who is deceased.

Decision or order (or decision and order) means:

(1) A written document issued by a judge making determinations as to heirs, wills, devisees, and the claims of creditors, and ordering distribution of trust or restricted land or trust personalty;

(2) The decision issued by an attorney decision maker in a summary probate proceeding; or

(3) A decision issued by a judge finding that the evidence is insufficient to determine that a person is dead by reason of unexplained absence.

Department means the Department of the Interior.

Devise means a gift of property by will. Also, to give property by will.

Devisee means a person or entity that receives property under a will.

Eligible heir means, for the purposes of the Act, any of a decedent's children, grandchildren, great grandchildren, full siblings, half siblings by blood, and parents who are any of the following:

(1) Indian;

(2) Lineal descendants within two degrees of consanguinity of an Indian; or

(3) Owners of a trust or restricted interest in a parcel of land for purposes of inheriting—by descent, renunciation, or consolidation agreement—another trust or restricted interest in such parcel from the decedent.

Estate means the trust or restricted land and trust personalty owned by the decedent at the time of death.

Formal probate proceeding means a proceeding, conducted by a judge, in which evidence is obtained through the

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testimony of witnesses and the receipt of relevant documents.

Heir means any individual or entity eligible to receive property from a decedent in an intestate proceeding.

Individual Indian Money (IIM) account means an interest bearing account for trust funds held by the Secretary that belong to a person who has an interest in trust assets. These accounts are under the control and management of the Secretary.

Indian means, for the purposes of the Act, any of the following:

(1) Any person who is a member of a federally recognized Indian tribe is eligible to become a member of any federally recognized Indian tribe, or is an owner (as of October 27, 2004) of a trust or restricted interest in land;

(2) Any person meeting the definition of Indian under 25 U.S.C. 479; or

(3) With respect to the inheritance and ownership of trust or restricted land in the State of California under 25 U.S.C. 2206, any person described in paragraph (1) or (2) of this definition or any person who owns a trust or restricted interest in a parcel of such land in that State.

Indian probate judge (IPJ) means an attorney with OHA, other than an ALJ, to whom the Secretary has delegated the authority to hear and decide Indian probate cases.

Interested party means:

(1) Any potential or actual heir;

(2) Any devisee under a will;

(3) Any person or entity asserting a claim against a decedent's estate;

(4) Any tribe having a statutory option to purchase the trust or restricted property interest of a decedent; or

(5) A co-owner exercising a purchase option.

Intestate means that the decedent died without a valid will as determined in the probate proceeding.

Judge means an ALJ or IPJ.

Lockbox means a centralized system within OST for receiving and depositing trust fund remittances collected by BIA.

LTRO means the Land Titles and Records Office within BIA.

OHA means the Office of Hearings and Appeals within the Department of the Interior.

OST means the Office of the Special Trustee for American Indians within the Department of the Interior.

Probate means the legal process by which applicable tribal, Federal, or State law that affects the distribution of a decedent's estate is applied in order to:

(1) Determine the heirs;

(2) Determine the validity of wills and determine devisees;

(3) Determine whether claims against the estate will be paid from trust personality; and

(4) Order the transfer of any trust or restricted land or trust personality to the heirs, devisees, or other persons or entities entitled by law to receive them.

Purchase option at probate means the process by which eligible purchasers can purchase a decedent's interest during the probate proceeding.

Restricted property means real property, the title to which is held by an Indian but which cannot be alienated or encumbered without the Secretary's consent. For the purpose of probate proceedings, restricted property is treated as if it were trust property. Except as the law may provide otherwise, the term "restricted property" as used in this part does not include the restricted lands of the Five Civilized Tribes of Oklahoma or the Osage Nation.

Secretary means the Secretary of the Interior or an authorized representative.

Summary probate proceeding means the consideration of a probate file without a hearing. A summary probate proceeding may be conducted if the estate involves only an IIM account that did not exceed \$5,000 in value on the date of the decedent's death.

Superintendent means a BIA Superintendent or other BIA official, including a field representative or one holding equivalent authority.

Testate means that the decedent executed a valid will as determined in the probate proceeding.

Testator means a person who has executed a valid will as determined in the probate proceeding.

Trust personality means all tangible personal property, funds, and securities of any kind that are held in trust in an

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IIM account or otherwise supervised by the Secretary.

Trust property means real or personal property, or an interest therein, the title to which is held in trust by the United States for the benefit of an individual Indian or tribe.

We or us means the Secretary, an authorized representative of the Secretary, or the authorized employee or representative of a tribe performing probate functions under a contract or compact approved by the Secretary.

Will means a written testamentary document that was executed by the decedent and attested to by two disinterested adult witnesses, and that states who will receive the decedent's trust or restricted property.

You or I means an interested party, as defined herein, with an interest in the decedent's estate unless the context requires otherwise.

[73 FR 67278, Nov. 13, 2008, as amended at 76 FR 7505, Feb. 10, 2011]

§ 15.3 Who can make a will disposing of trust or restricted land or trust personalty?

Any person 18 years of age or over and of testamentary capacity, who has any right, title, or interest in trust or restricted land or trust personalty, may dispose of trust or restricted land or trust personalty by will.

§ 15.4 What are the requirements for a valid will?

You must meet the requirements of §15.3, date and execute your will, in writing and have it attested by two disinterested adult witnesses.

§ 15.5 May I revoke my will?

Yes. You may revoke your will at any time. You may revoke your will by any means authorized by tribal or Federal law, including executing a subsequent will or other writing with the same formalities as are required for execution of a will.

§ 15.6 May my will be deemed revoked by operation of the law of any State?

No. A will that is subject to the regulations of this subpart will not be deemed to be revoked by operation of the law of any State.

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§ 15.7 What is a self-proved will?

A self-proved will is a will with attached affidavits, signed by the testator and the witnesses before an officer authorized to administer oaths, certifying that they complied with the requirements of execution of the will.

§ 15.8 May I make my will, codicil, or revocation self-proved?

Yes. A will, codicil, or revocation may be made self-proved as provided in this section.

(a) A will, codicil, or revocation may be made self-proved by the testator and attesting witnesses at the time of its execution.

(b) The testator and the attesting witnesses must sign the required affidavits before an officer authorized to administer oaths, and the affidavits must be attached to the will, codicil, or revocation.

§ 15.9 What information must be included in an affidavit for a self-proved will, codicil, or revocation?

(a) A testator's affidavit must contain substantially the following content:

Tribe of _____ or
State of _____
County of _____.

I, _____, swear or affirm under penalty of perjury that, on the ____ day of _____, 20____, I requested _____ and _____ to act as witnesses to my will; that I declared to them that the document was my last will; that I signed the will in the presence of both witnesses; that they signed the will as witnesses in my presence and in the presence of each other; that the will was read and explained to me (or read by me), after being prepared and before I signed it, and it clearly and accurately expresses my wishes; and that I willingly made and executed the will as my free and voluntary act for the purposes expressed in the will.

Testator _____

(b) Each attesting witness's affidavit must contain substantially the following content:

We, _____ and _____, swear or affirm under penalty of perjury that on the ____ day of _____, 20____, _____ of the State of _____, published and declared the attached document to be his/her last will, signed the will in the presence of both of us, and requested both of us to sign the will as witnesses; that we, in compliance with his/her request, signed the will as witnesses in his/her presence and in the presence of each

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other; and that the testator was not acting under duress, menace, fraud, or undue influence of any person, so far as we could determine, and in our opinion was mentally capable of disposing of all his/her estate by will.

Witness

Witness

Subscribed and sworn to or affirmed before me this ____ day of _____, 20____, by _____ testator, and by _____ and _____, attesting witnesses.

(Title)

§ 15.10 What assets will the Secretary probate?

(a) We will probate only the trust or restricted land, or trust personalty owned by the decedent at the time of death.

(b) We will not probate the following property:

(1) Real or personal property other than trust or restricted land or trust personalty owned by the decedent at the time of death;

(2) Restricted land derived from allotments made to members of the Five Civilized Tribes (Cherokee, Choctaw, Chickasaw, Creek, and Seminole) in Oklahoma; and

(3) Restricted interests derived from allotments made to Osage Indians in Oklahoma (Osage Nation) and Osage headright interests owned by Osage decedents.

(c) We will probate that part of the lands and assets owned by a deceased member of the Five Civilized Tribes or Osage Nation who owned a trust interest in land or a restricted interest in land derived from an individual Indian who was a member of a Tribe other than the Five Civilized Tribes or Osage Nation.

[76 FR 7505, Feb. 10, 2011]

§ 15.11 What are the basic steps of the probate process?

The basic steps of the probate process are:

(a) We learn about a person’s death (see subpart B for details);

(b) We prepare a probate file that includes documents sent to the agency (see subpart C for details);

(c) We refer the completed probate file to OHA for assignment to a judge or ADM (see subpart D for details); and

(d) The judge or ADM decides how to distribute any trust or restricted land and/or trust personalty, and we make the distribution (see subpart D for details).

§ 15.12 What happens if assets in a trust estate may be diminished or destroyed while the probate is pending?

(a) This section applies if an interested party or BIA:

(1) Learns of the death of a person owning trust or restricted property; and

(2) Believes that an emergency exists and the assets in the estate may be significantly diminished or destroyed before the final decision and order of a judge in a probate case.

(b) An interested party, the Superintendent, or other authorized representative of BIA has standing to request relief.

(c) The interested party or BIA representative may request:

(1) That OHA immediately assign a judge or ADM to the probate case;

(2) That BIA transfer a probate file to OHA containing sufficient information on potential interested parties and documentation concerning the alleged emergency for a judge to consider emergency relief in order to preserve estate assets; and

(3) That OHA hold an expedited hearing or consider ex parte relief to prevent impending or further loss or destruction of trust assets.

[73 FR 67278, Nov. 13, 2008, as amended at 76 FR 7505, Feb. 10, 2011]

Subpart B—Starting the Probate Process

§ 15.101 When should I notify the agency of the death of a person owning trust or restricted property?

There is no deadline for notifying us of a death.

(a) Notify us as provided in § 15.103 to assure timely distribution of the estate.

(b) If we find out about the death of a person owning trust or restricted

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property we may initiate the process to collect the necessary documentation.

§ 15.102 Who may notify the agency of a death?

Anyone may notify us of a death.

§ 15.103 How do I begin the probate process?

As soon as possible, contact any of the following offices to inform us of the decedent's death:

- (a) The agency or BIA regional office nearest to where the decedent was enrolled;
- (b) Any agency or BIA regional office; or
- (c) The Trust Beneficiary Call Center in OST.

§ 15.104 Does the agency need a death certificate to prepare a probate file?

(a) Yes. You must provide us with a certified copy of the death certificate if a death certificate exists. If necessary, we will make a copy from your certified copy for our use and return your copy.

(b) If a death certificate does not exist, you must provide an affidavit containing as much information as you have concerning the deceased, such as:

- (1) The State, city, reservation, location, date, and cause of death;
- (2) The last known address of the deceased;
- (3) Names and addresses of others who may have information about the deceased; and
- (4) Any other information available concerning the deceased, such as newspaper articles, an obituary, death notices, or a church or court record.

§ 15.105 What other documents does the agency need to prepare a probate file?

In addition to the certified copy of a death certificate or other reliable evidence of death listed in § 15.104, we need the following information and documents:

- (a) Originals or copies of all wills, codicils, and revocations, or other evidence that a will may exist;
- (b) The Social Security number of the decedent;
- (c) The place of enrollment and the tribal enrollment or census number of

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the decedent and potential heirs or devisees;

(d) Current names and addresses of the decedent's potential heirs and devisees;

(e) Any sworn statements regarding the decedent's family, including any statements of paternity or maternity;

(f) Any statements renouncing an interest in the estate including identification of the person or entity in whose favor the interest is renounced, if any;

(g) A list of claims by known creditors of the decedent and their addresses, including copies of any court judgments; and

(h) Documents from the appropriate authorities, certified if possible, concerning the public record of the decedent, including but not limited to, any:

- (1) Marriage licenses and certificates of the decedent;
- (2) Divorce decrees of the decedent;
- (3) Adoption and guardianship records concerning the decedent or the decedent's potential heirs or devisees;
- (4) Use of other names by the decedent, including copies of name changes by court order; and
- (5) Orders requiring payment of child support or spousal support.

§ 15.106 May a probate case be initiated when an owner of an interest has been absent?

(a) A probate case may be initiated when either:

(1) Information is provided to us that an owner of an interest in trust or restricted land or trust personalty has been absent without explanation for a period of at least 6 years; or

(2) We become aware of other facts or circumstances from which an inference may be drawn that the person has died.

(b) When we receive information as described in § 15.106(a), we may begin an investigation into the circumstances, and may attempt to locate the person. We may:

- (1) Search available electronic databases;
- (2) Inquire into other published information sources such as telephone directories and other available directories;
- (3) Examine BIA land title and lease records;

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(4) Examine the IIM account ledger for disbursements from the account; and

(5) Engage the services of an independent firm to conduct a search for the owner.

(c) When we have completed our investigation, if we are unable to locate the person, we may initiate a probate case and prepare a file that may include all the documentation developed in the search.

(d) We may file a claim in the probate case to recover the reasonable costs expended to contract with an independent firm to conduct the search.

§ 15.107 Who prepares a probate file?

The agency that serves the tribe where the decedent was an enrolled member will prepare the probate file in consultation with the potential heirs or devisees who can be located, and with other people who have information about the decedent or the estate.

§ 15.108 If the decedent was not an enrolled member of a tribe or was a member of more than one tribe, who prepares the probate file?

Unless otherwise provided by Federal law, the agency that has jurisdiction over the tribe with the strongest association with the decedent will serve as the home agency and will prepare the probate file if the decedent owned interests in trust or restricted land or trust personalty and either:

(a) Was not an enrolled member of a tribe; or

(b) Was a member of more than one tribe.

Subpart C—Preparing the Probate File

§ 15.201 What will the agency do with the documents that I provide?

After we receive notice of the death of a person owning trust or restricted land or trust personalty, we will examine the documents provided under §§ 15.104 and 15.105, and other documents and information provided to us to prepare a complete probate file. We may consult with you and other individuals or entities to obtain additional information to complete the probate

file. Then we will transfer the probate file to OHA.

§ 15.202 What items must the agency include in the probate file?

We will include the items listed in this section in the probate file.

(a) The evidence of death of the decedent as provided under § 15.104.

(b) A completed “Data for Heirship Findings and Family History Form” or successor form, certified by BIA, with the enrollment or other identifying number shown for each potential heir or devisee.

(c) Information provided by potential heirs, devisees, or the tribes on:

(1) Whether the heirs and devisees meet the definition of “Indian” for probate purposes, including enrollment or eligibility for enrollment in a tribe; or

(2) Whether the potential heirs or devisees are within two degrees of consanguinity of an “Indian.”

(d) If an individual qualifies as an Indian only because of ownership of a trust or restricted interest in land, the date on which the individual became the owner of the trust or restricted interest.

(e) A certified inventory of trust or restricted land, including:

(1) Accurate and adequate descriptions of all land; and

(2) Identification of any interests that represent less than 5 percent of the undivided interests in a parcel.

(f) A statement showing the balance and the source of funds in the decedent’s IIM account on the date of death.

(g) A statement showing all receipts and sources of income to and disbursements, if any, from the decedent’s IIM account after the date of death.

(h) Originals or copies of all wills, codicils, and revocations that have been provided to us.

(i) A copy of any statement or document concerning any wills, codicils, or revocations the BIA returned to the testator.

(j) Any statement renouncing an interest in the estate that has been submitted to us, and the information necessary to identify any person receiving a renounced interest.

(k) Claims of creditors that have been submitted to us under § 15.302

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through 15.305, including documentation required by § 15.305.

(l) Documentation of any payments made on requests filed under the provisions of § 15.301.

(m) All the documents acquired under § 15.105.

(n) The record of each tribal or individual request to purchase a trust or restricted land interest at probate.

(o) The record of any individual request for a consolidation agreement, including a description, such as an Individual/Tribal Interest Report, of any lands not part of the decedent's estate that are proposed for inclusion in the consolidation agreement.

[73 FR 67278, Nov. 13, 2008, as amended at 76 FR 7505, Feb. 10, 2011]

§ 15.203 What information must Tribes provide BIA to complete the probate file?

Tribes must provide any information that we require or request to complete the probate file. This information may include enrollment and family history data or property title documents that pertain to any pending probate matter, and a copy of Tribal probate orders where they exist.

[76 FR 7505, Feb. 10, 2011]

§ 15.204 When is a probate file complete?

A probate file is complete for transfer to OHA when a BIA approving official includes a certification that:

(a) States that the probate file includes all information listed in § 15.202 that is available; and

(b) Lists all sources of information BIA queried in an attempt to locate information listed in § 15.202 that is not available.

Subpart D—Obtaining Emergency Assistance and Filing Claims

§ 15.301 May I receive funds from the decedent's IIM account for funeral services?

(a) You may request an amount of no more than \$1,000 from the decedent's IIM account if:

(1) You are responsible for making the funeral arrangements on behalf of

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the family of a decedent who had an IIM account;

(2) You have an immediate need to pay for funeral arrangements before burial; and

(3) The decedent's IIM account contains more than \$2,500 on the date of death.

(b) You must apply for funds under paragraph (a) of this section and submit to us an original itemized estimate of the cost of the service to be rendered and the identification of the service provider.

(c) We may approve reasonable costs of no more than \$1,000 that are necessary for the burial services, taking into consideration:

(1) The total amount in the IIM account;

(2) The availability of non-trust funds; and

(3) Any other relevant factors.

(d) We will make payments directly to the providers of the services.

§ 15.302 May I file a claim against an estate?

If a decedent owed you money, you may make a claim against the estate of the decedent.

§ 15.303 Where may I file my claim against an estate?

(a) You may submit your claim to us before we transfer the probate file to OHA or you may file your claim with OHA after the probate file has been transferred if you comply with 43 CFR 30.140 through 30.148.

(b) If we receive your claim after the probate file has been transmitted to OHA but before the order is issued, we will promptly transmit your claim to OHA.

§ 15.304 When must I file my claim?

You must file your claim before the conclusion of the first hearing by OHA or, for cases designated as summary probate proceedings, as allowed under 43 CFR 30.140. Claims not timely filed will be barred.

§ 15.305 What must I include with my claim?

(a) You must include an itemized statement of the claim, including copies of any supporting documents such

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as signed notes, account records, billing records, and journal entries. The itemized statement must also include:

(1) The date and amount of the original debt;

(2) The dates, amounts, and identity of the payor for any payments made;

(3) The dates, amounts, product or service, and identity of any person making charges on the account;

(4) The balance remaining on the debt on the date of the decedent's death; and

(5) Any evidence that the decedent disputed the amount of the claim.

(b) You must submit an affidavit that verifies the balance due and states whether:

(1) Parties other than the decedent are responsible for any portion of the debt alleged;

(2) Any known or claimed offsets to the alleged debt exist;

(3) The creditor or anyone on behalf of the creditor has filed a claim or sought reimbursement against the decedent's non-trust or non-restricted property in any other judicial or quasi-judicial proceeding, and the status of such action; and

(4) The creditor or anyone on behalf of the creditor has filed a claim or sought reimbursement against the decedent's trust or restricted property in any other judicial or quasi-judicial proceeding, and the status of such action.

(c) A secured creditor must first exhaust the security before a claim against trust personalty for any deficiency will be allowed. You must submit a verified or certified copy of any judgment or other documents that establish the amount of the deficiency after exhaustion of the security.

Subpart E—Probate Processing and Distributions

§ 15.401 What happens after BIA prepares the probate file?

Within 30 days after we assemble all the documents required by §§ 15.202 and 15.204, we will:

(a) Refer the case and send the probate file to OHA for adjudication in accordance with 43 CFR part 30; and

(b) Forward a list of fractional interests that represent less than 5 percent of the entire undivided ownership of

each parcel of land in the decedent's estate to the tribes with jurisdiction over those interests.

§ 15.402 What happens after the probate file is referred to OHA?

When OHA receives the probate file from BIA, it will assign the case to a judge or ADM. The judge or ADM will conduct the probate proceeding and issue a written decision or order, in accordance with 43 CFR part 30.

§ 15.403 What happens after the probate order is issued?

(a) If the probate decision or order is issued by an ADM, you have 30 days from the decision mailing date to file a written request for a de novo review.

(b) If the probate decision or order is issued by a judge, you have 30 days from the decision mailing date to file a written request for rehearing. After a judge's decision on rehearing, you have 30 days from the mailing date of the decision to file an appeal, in accordance with 43 CFR parts 4 and 30.

(c) When any interested party files a timely request for de novo review, a request for rehearing, or an appeal, we will not pay claims, transfer title to land, or distribute trust personalty until the request or appeal is resolved.

(d) If no interested party files a request or appeal within the 30-day deadlines in paragraphs (a) and (b) of this section, we will wait at least 15 additional days before paying claims, transferring title to land, and distributing trust personalty. At that time:

(1) The LTRO will change the land title records for the trust and restricted land in accordance with the final decision or order; and

(2) We will pay claims and distribute funds from the IIM account in accordance with the final decision or order.

Subpart F—Information and Records

§ 15.501 How may I find out the status of a probate?

You may get information about the status of an Indian probate by contacting any BIA agency or regional office, an OST fiduciary trust officer, OHA, or the Trust Beneficiary Call Center in OST.

§ 15.502

§ 15.502 Who owns the records associated with this part?

(a) The United States owns the records associated with this part if:

(1) They are evidence of the organization, functions, policies, decisions, procedures, operations, or other activities undertaken in the performance of a federal trust function under this part; and

(2) They are either:

(i) Made by or on behalf of the United States; or

(ii) Made or received by a tribe or tribal organization in the conduct of a Federal trust function under this part, including the operation of a trust program under Pub. L. 93-638, as amended, and as codified at 25 U.S.C. 450 *et seq.*

(b) The tribe owns the records associated with this part if they:

(1) Are not covered by paragraph (a) of this section; and

(2) Are made or received by a tribe or tribal organization in the conduct of business with the Department of the Interior under this part.

§ 15.503 How must records associated with this part be preserved?

(a) Any organization that has records identified in § 15.502(a), including tribes and tribal organizations, must preserve the records in accordance with approved Departmental records retention procedures under the Federal Records Act, 44 U.S.C. chapters 29, 31, and 33; and

(b) A tribe or tribal organization must preserve the records identified in § 15.502(b) for the period authorized by the Archivist of the United States for similar Department of the Interior records under 44 U.S.C. chapter 33. If a tribe or tribal organization does not do so, it may be unable to adequately document essential transactions or furnish information necessary to protect its legal and financial rights or those of persons affected by its activities.

§ 15.504 Who may inspect records and records management practices?

(a) You may inspect the probate file at the relevant agency before the file is transferred to OHA. Access to records in the probate file is governed by 25 U.S.C. 2216(e), the Privacy Act, and the Freedom of Information Act.

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(b) The Secretary and the Archivist of the United States may inspect records and records management practices and safeguards required under the Federal Records Act.

§ 15.505 How does the Paperwork Reduction Act affect this part?

The collections of information contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076-0169. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to a collection of information unless the form or regulation requesting the information has a currently valid OMB Control Number.

PART 16—ESTATES OF INDIANS OF THE FIVE CIVILIZED TRIBES

Sec.

16.1 Definitions.

16.2 Scope of regulations.

16.3 Legal representation in State courts.

16.4 Exchange of information within the Department.

16.5 Acceptance and acknowledgement of service of process.

16.6 Authority of attorneys in State court litigation.

16.7 Performance of Federal functions by successor State courts.

16.8 Summary distribution of small liquid estates.

16.9 Escheat of estates of decedents.

AUTHORITY: 5 U.S.C. 301 (Interprets or applies Act of Apr. 26, 1906, ch. 1876, 34 Stat. 137, see 25 U.S.C. 355nt (1970); Act of May 27, 1908, ch. 199, 35 Stat. 312, see 25 U.S.C. 355nt (1970); Act of June 14, 1918, ch. 101, 40 Stat. 606, 25 U.S.C. 355, 375 (1970); Act of Apr. 12, 1926, ch. 115, 44 Stat. 239, see 25 U.S.C. 355nt (1970); Act of June 26, 1936, ch. 831, 49 Stat. 1967, 25 U.S.C. 501-509 (1970); Act of Aug. 4, 1947, ch. 458, 61 Stat. 731, 25 U.S.C. 502 (1970) and see 25 U.S.C. 355nt (1970); Act of Aug. 12, 1953, ch. 409, 67 Stat. 558, 25 U.S.C. 375c (1970) and see 25 U.S.C. 355nt (1970); Act of Aug. 11, 1955, ch. 786, 69 Stat. 666, see 25 U.S.C. 355nt (1970); Act of Aug. 29, 1967, Pub. L. 90-76, 81 Stat. 177, 25 U.S.C. 786-788 (1970); and Act of May 7, 1970, Pub. L. 91-240, 84 Stat. 203, 25 U.S.C. 375d (1970)).

SOURCE: 37 FR 7082, Apr. 8, 1972, unless otherwise noted.