

Bureau of Indian Affairs, Interior

§ 115.806

INVESTMENTS AND INTERESTS

§ 115.710 Does money in a trust account earn interest?

Yes, all money deposited in a trust account is invested and earns interest or yield returns, or both.

§ 115.711 How is money in a trust account invested?

OTFM manages trust fund investments and its investment decisions are governed by federal statute. See 25 U.S.C. §§ 161(a) and 162a.

§ 115.712 What is the interest rate earned on money in a trust account?

The rate of interest on a trust account changes based on how the money is invested and how those investments perform.

§ 115.713 When does money in a trust account start earning interest?

Funds must remain on deposit at least one business day before interest is earned. Interest earnings of less than one cent are not credited to any account.

Subpart G—Tribal Accounts

§ 115.800 When does OTFM open a tribal account?

A tribal account is opened when OTFM receives income from the sources described in § 115.702.

§ 115.801 How often will a tribe receive information about its trust account(s)?

The OTFM is required to provide each tribe with a statement of performance quarterly, within or no later than 20 business days after the close of every quarterly statement period.

§ 115.802 May a tribe make a request to OTFM to receive information about its trust account more frequently?

Yes, a tribe may contact OTFM at any time to:

- (a) Request information about account transactions and balances;
- (b) Make arrangements to access account information electronically; or
- (c) Receive a monthly statement.

§ 115.803 What information will be provided in a statement of performance?

The statement of performance will identify the source, type, and status of the trust funds deposited and held in a trust account; the beginning balance; the gains and losses; receipts and disbursements; and the ending account balance of the quarterly statement period.

§ 115.804 Will we account to a tribe for those trust funds the tribe receives through direct pay?

No, under the Trust Reform Act we are only responsible for accounting for those trust funds received into, and maintained by, the Department's trust funds management system.

§ 115.805 If a tribe is paid directly under a contract for the sale or use of trust assets, will we accept those trust funds for deposit into a tribal trust account?

If a contract for the sale or use of trust assets specifies that payments are to be made directly to a tribe, we will not accept these trust funds into a tribal trust account. Where a tribe under 25 U.S.C. 450f *et seq.* has contracted or compacted with the federal government to operate a federal program and the tribe, operating the federal program on behalf of the Secretary, receives trust funds for the sale or use of trust assets pursuant to a contract that specifies that payments are to be made to the Secretary on behalf of a tribe or an individual [the owner of the trust assets], the tribe must follow § 115.708 for the deposit of the trust funds into the trust account.

§ 115.806 How will the BIA assist in the administration of tribal judgment fund accounts?

(a) If the tribe requests assistance or if Congress directs the Secretary to provide assistance, BIA will provide technical assistance on developing a judgment use and distribution plan to a tribe.

(b) BIA will review all tribal requests for distribution of tribal judgment funds to ensure that each request complies with any requirements associated with the use of that money found in

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statutory language, congressional directives, court orders, court-approved settlements, settlement agreements, use and distribution plans, or bond or loan payments.

INVESTING AND MANAGING TRIBAL TRUST FUNDS

§ 115.807 Will OTFM consult with tribes about investments of tribal trust funds?

Upon the request of a tribe, OTFM will consult with the tribe annually to develop investment strategies to accommodate the cash flow needs of the tribe.

§ 115.808 Could trust fund investments made by OTFM lose money?

The value of trust fund investments made by OTFM will vary depending on the type of investment and, including but not limited to, the following:

- (a) Current interest rates;
- (b) Whether the security/investment is held to its maturity; and
- (c) Original purchase price.

However, as long as the purchase price of the security/investment is made at or below face value and the security/investment is held until maturity or payoff, the security/investment will not lose principal invested funds.

§ 115.809 May a tribe recommend to OTFM how to invest the tribe's trust funds?

Tribes may recommend certain investments to OTFM, but the recommendations must be in accordance with the statutory requirements set forth in 25 U.S.C. §§161a and 162a. The OTFM will make the final investment decision based on prudent investment practices.

§ 115.810 May a tribe directly invest and manage its trust funds?

A tribe may apply to withdraw its trust funds from OTFM for investment and management by the tribe. The tribe's request to withdraw funds must be in accordance with the requirements of the Trust Reform Act and 25 CFR part 1200, subpart B, unless otherwise specified by statutory language or the controlling document which governs the use of the trust funds.

§ 115.811 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;
 - (2) The tribe acknowledges that they may incur a penalty when the security is sold; and