

Planning for the Passing of Reservation Lands to Future Generations



March 23, 2007

FACT SHEET #13

Your Individual Indian Money (IIM) account: What happens to your money if you pass away without writing a will?

What is an IIM Account?

Individual Indian Money (IIM) accounts contain money collected from leases, minerals, timber or sales etc., from land in which Indians own interests. Individual Indian Money (IIM) accounts are administered by the Office of the Special Trustee (OST) within the Department of Interior.

If you pass away on or after June 20, 2006 without a written will, the American Indian Probate Reform Act (AIPRA) determines who is eligible to inherit your IIM account*.

With a written will you can leave the money in your IIM account to anyone you wish. However, your money will not retain trust status unless it passes to an Indian *eligible heir* (See Fact Sheet #5).

The purpose of this fact sheet is to describe who will receive the money in your IIM account (if you have one) if you pass away without writing a will.

* Except Alaska, the Five Civilized Tribes, and Osage.

How do I know if I have an IIM account?

If you aren't sure if you have an IIM account, you can request an IIM ledger report from the Office of the Special Trustee (OST). If you have an account, your IIM ledger report will tell you your balance and any deposits made into the account since it was established.

You can get a copy of your IIM ledger by calling your local Office of the Special Trustee (OST):

Blackfeet: 406-338-7518
Fort Peck: 406-768-3288
Fort Belknap: 406-353-2281
Fort Hall: 208-238-2310

When you call the OST office you will need to have the following information available, your:

- Social Security number
- Enrollment number
- Mailing address
- Phone number

After your call, the staff of the Office of the Special Trustee will send you a copy of your IIM ledger or you can pick it up at the OST office located on your reservation.

A toll-free number is also available to assist you: 1-888-678-6836. When you call this number you will need to provide the following information so the person can access your IIM account information, your:

- Enrollment number
- Last four digits of your Social Security number
- Date of birth

The individual at the toll-free number will tell you your account balance and send your IIM ledger report to the mailing address that you provide.

Does the money in my IIM account retain trust status after I pass away?

The money in your IIM account will retain trust status if it passes to *eligible heirs*. *Eligible heirs* are your children, grandchildren, great grandchildren, full brothers and sisters, half brothers and sisters, and parents as long as they are *Indian* or lineal descendents within two degrees of an *Indian*. A complete definition of *eligible heirs* and *Indian* is provided in Fact Sheet #5.

If any of your heirs are not eligible to hold an IIM account in trust, the Office of the Special Trustee will distribute the money from your IIM account to them. Your heirs, however, must arrange for the money to be deposited in a bank account. The money in your IIM account loses trust status if it passes to those who can not hold the account in trust.

Who receives my IIM account if I pass away without writing a will?

If you pass away without a written will, the money in your IIM account (if you have one) will be distributed under the American Indian Probate Reform Act of 2004 (AIPRA)*.

* Except Alaska, the Five Civilized Tribes, and Osage.

Effective June 20, 2006 and thereafter, state laws no longer determine how the money in IIM accounts passes from one generation to the next*.

Your marital status and the presence of children will have an effect on how the money in your IIM account will be distributed to your heirs if you pass away without a written will. Answer the question below and proceed to additional questions that best describe your situation.

What is your marital status?

- Married (See questions #1 and #2)
 Single (See questions #3, #4, #5, and #6)

MARRIED

Question 1: Is your spouse living and you have no living children or grandchildren?

- Yes (Read below and see Figure 1)
 No (See question #2)

If you are married and have no written will at the time of your passing and if you do not have any living children or grandchildren, then all of the money in your IIM account (if you have one) passes to your surviving spouse.

Your surviving spouse has priority over all of your other relatives including your parents, brothers, sisters or grandparents.

Example 1: Doug who was married passed away with \$15,000 in his IIM account. He was survived by his wife, Laura. His wife received the entire \$15,000. Because Laura is Indian, the money retained its trust status when transferred from Doug's IIM account to his wife's IIM account (See Figure 1).

Figure 1: Survivor—Spouse: IIM account passes to surviving spouse



Question 2: Is your spouse living and you have living children?

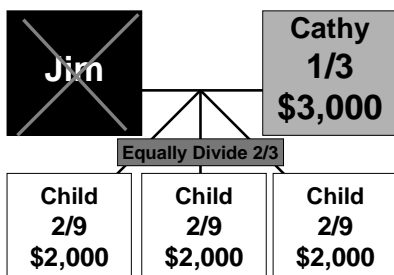
- Yes (Read below and see Figures 2a, 2b, 2c, and 2d)
- No (Review question #1)

If you are married and do not have a will at the time of your passing and if you have a living spouse and living children, then your IIM account (if you have one) passes as follows:

- Your surviving spouse receives 1/3 of the money that was in your IIM account at the date of your passing.
- The remaining 2/3 of the money in your IIM account at the date of your passing is equally divided among your children.

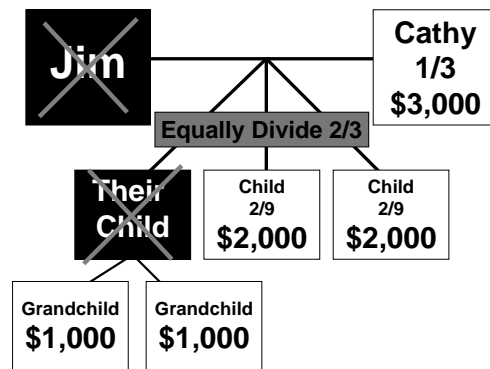
Example 2a: On the date of Jim’s passing, he had \$9,000 in his IIM account. He was married and had three children. His wife, Cathy, received 1/3 (\$3,000) and his three children split the remaining 2/3. Each child received \$2,000 (\$9,000 - \$3,000 = \$6,000 ÷ 3 = \$2,000) (See Figure 2a, 2b, 2c).

Figure 2a: Survivors—Spouse and three children: IIM account passes 1/3 to surviving spouse; 2/3 to children



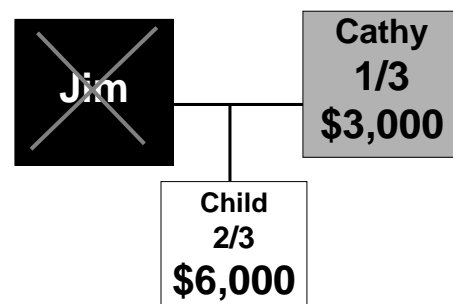
Example 2b: If Jim had been survived by two living grandchildren from a deceased child, Cathy would have received 1/3 (\$3,000). His two living children would still receive \$2,000 each. His two living grandchildren inherit by *right of representation*. Under *right of representation*, his two living grandchildren share the amount that would have passed to their parent if the parent had survived Jim. Each grandchild receives \$1,000 (See Figure 2b).

Figure 2b: Survivors—Spouse, two children, and two grandchildren from deceased child: IIM account passes 1/3 to surviving spouse, 2/3 to children and grandchildren (by right of representation)



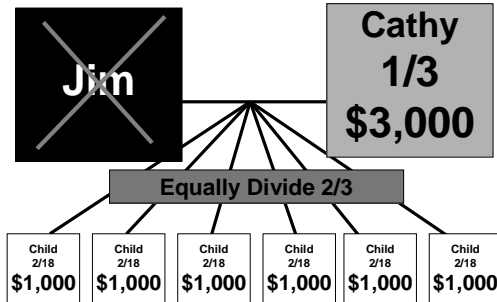
Example 2c: If Jim was survived by only one child and his wife, his wife would still receive 1/3 (\$9,000 x 1/3 = \$3,000) and his child would receive 2/3 (\$9,000 x 2/3 = \$6,000) (See Figure 2c).

Figure 2c: Survivors—Spouse and one child: IIM account passes 1/3 to surviving spouse; 2/3 to child



Example 2d: If Jim had six children his wife, Cathy, would still receive 1/3 (\$3,000). Jim's six children would equally split the remaining 2/3 (\$6,000), receiving \$1,000 each ($\$9,000 - \$3,000 = \$6,000 \div 6 = \$1,000$) (See Figure 2d).

Figure 2d: Survivors—Spouse and six children: IIM account passes 1/3 to surviving spouse; 2/3 to children



SINGLE

You may be *single* because you have never been married. You may also be *single* because your spouse has passed away. Or, you may be *single* because you are legally divorced. If you and your spouse are *legally separated*, you are still considered married and **you do not fit** the *single* category.

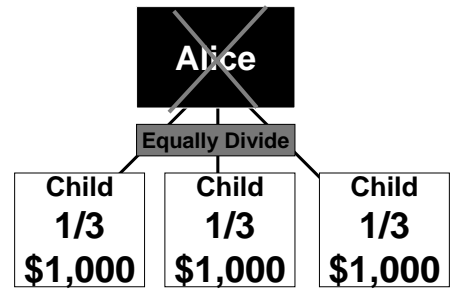
Question 3: Are you single and have living children?

- Yes (Read below and see Figure 3)
- No (See questions #4, #5, and #6)

If you are *single* (have no will) and all your children are living at the time of your passing, then the money in your IIM account (if you have one) passes equally to all your living children.

Example 3: Alice, a single parent, passed away with \$3,000 in her IIM account. The money in her account passed equally to all her living children. Her three living children each received 1/3 of the IIM account (\$1,000 each) (See Figure 3) ($\$3,000 \div 3 = \$1,000$).

Figure 3: Survivors—Three children: IIM account passes equally to children



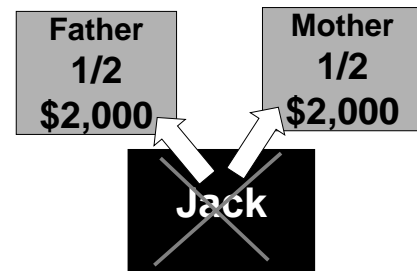
Question 4: Are you single with no living children, but your parents are alive?

- Yes (Read below and see Figures 4a & 4b)
- No (See Question #5)

If you are *single* at the time of your passing, have no written will, and have no living children or grandchildren but you have living parents, then the money in your IIM account (if you have one) passes equally to your parents.

Example 4a: On the date of Jack's passing, he had \$4,000 in his IIM account. He was survived by his mother and father. His mother received 1/2 (\$2,000) and his father received 1/2 (\$2,000) (See Figure 4a).

Figure 4a: Survivors—Both parents: IIM account passes equally to each parent

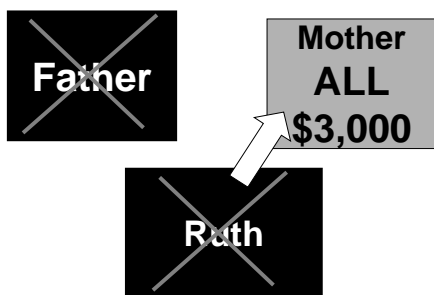


If you have only one parent who survives you, your parent receives the balance in your IIM account (if you have one).

Example 4b: At the date of Ruth’s passing, there was \$3,000 in her IIM account. Ruth was survived by her mother. Ruth’s mother received all \$3,000 because she was the only survivor (See Figure 4b).

If Ruth’s father had been the only surviving parent, then he would have received the \$3,000.

Figure 4b: Survivor—One parent: IIM account passes to the surviving parent



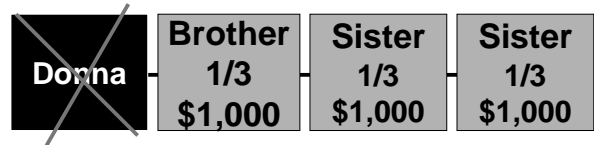
Question 5: Are you single with no living children or grandchildren, no living parents, but all of your brothers and/or sisters are living?

- Yes (Read below and see Figure 5)
- No (See question #6)

If you are single and have no parents living at the time of your passing and if you have no written will, then the money in your IIM account (if you have one) passes equally to your brothers and sisters.

Example 5: On the date of Donna’s passing, she had \$3,000 in her IIM account. Her brother and two sisters are her only survivors. They share equally the IIM account money, each receiving 1/3 (\$1,000 to each brother and sister) $\$3,000 \div 3 = \$1,000$ (See Figure 5).

Figure 5: Survivors—Two sisters and one brother: IIM account passes equally to each sibling



Question 6: Are you single with no living children or grandchildren and no living parents, but one or more of your brothers or sisters passed away before you leaving living children (your nieces and nephews)?

- Yes (Read below and see Figure 6)
- No (Review Figure 5)

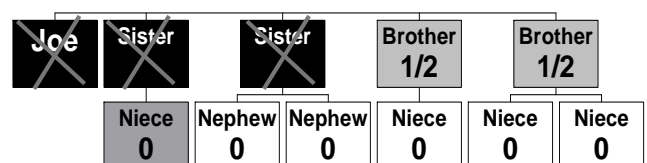
If you are single and have no parents living at the time of your passing, have no written will, then the money in your IIM account (if you have one) passes to your living brothers and sisters. Your nieces and nephews do not inherit.

Example 6: Joe passed away without a written will. Joe had two brothers who survived him and two sisters who passed away before he did (See Figure 6).

Each living brother receives 1/2 of Joe’s IIM account value at the date of his passing (See Figure 6).

His niece (the daughter of his deceased sister) and two nephews (children of his other deceased sister) do not receive any of Joe’s IIM money (See Figure 6).

Figure 6: Survivors—Two brothers, nieces and nephews): IIM account passes equally to living siblings



Should I include a provision for an IIM account in my will?

Yes!!!! When you write your will you should include a section about an IIM account even if you don't know if you have an IIM account or even if your IIM report shows no money in your account.

Currently, IIM accounts are the subject of a class action lawsuit. Because a class action settlement may occur in 2007 or later, be sure to indicate in your written will how you want any potential IIM account money to be distributed upon your passing.

Summary

If you pass away without a written will, AIPRA determines who is eligible to inherit the money in your IIM account (if you have one)*. The money in IIM accounts will retain trust status if passed to Indian *eligible heirs*. If the IIM account passes to those who cannot hold interests in trust it does not retain trust status.

If you are married and have children, 1/3 of your IIM account value at the date of your passing goes to your surviving spouse, while the remaining 2/3 is equally divided among your children and grandchildren (if one or more of your children has passed away) by *right of representation* (Review Fact Sheet #6).

If you are single and do not have any living children or grandchildren at the time of your passing, but you have living parents, then the money in your IIM account passes equally to your parents. If only one parent survives, he or she receives the balance value at the date of your passing.

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* Except Alaska, the Five Civilized Tribes, and Osage.

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Disclaimer

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