



THE HO-CHUNK NATION
MINORS & LEGALLY INCOMPETENT TRUST
Explanations, Taxes & Procedures

INTRODUCTION:

The Ho-Chunk Nation (“HCN”) currently receives revenue from its IGRA-regulated gaming operations and distributes a portion of it to its members as per capita payments. The federal Indian Gaming Regulatory Act (“IGRA”) states that the purpose of per capita payments is to advance the personal health, education and welfare of community members. However, per capita payments are not paid directly to minors or legally incompetent individuals. Instead, such per capita payments are paid into an IGRA Per Capita Trust Account which is held in trust for the benefit of the minor or legally incompetent individual. IGRA requires the HCN to provide in the Trust Agreement (the “Trust”) provisions that protect the interests of minors and legally incompetent individuals.

Since 2013 the Trust has been administered by the current Trustee, Providence First Trust Company (“PFTC”), and the funds have been separately invested by the Investment Manager, Key Bank, in stocks and bonds. The safety and growth of Trust funds are high priorities of the Legislature, the Trustee, and the Investment Manager.

This document explains provisions of the Trust, how to receive distributions from the Trust, and tax procedures and requirements. According to law, distributions from the Trust cannot be made for the general support and care of your child, which is the legal responsibility of the parent(s) or guardian(s). Funds from insurance, federal and state governments and entitlement programs and other HCN assistance programs should be used before Trust funds are requested. All early distributions must be approved by the HCN Trial Court.

WHEN A BENEFICIARY’S TRUST ACCOUNT IS DISTRIBUTED:

A Beneficiary’s trust funds or Account, are distributed upon the earlier of the Member reaching the age of 18, producing evidence of a high school diploma to the Department of Enrollment, and completing the educational requirements of the HCN required of all beneficiaries. If there is no high school diploma then the minimum age of distribution is age 25. All termination distributions are first approved by the Nation.

SPECIAL EARLY DISTRIBUTIONS – COURT APPROVAL:

Funds in the Trust of a minor or legally incompetent member may be available for the benefit of the beneficiary’s health, education, and welfare when such needs are not being met from other Tribal funds or other state or federal public entitlement programs, and upon a finding of special need by the Ho-Chunk Trial Court. To request such funds from the Court, the following three requirements apply:

- 1) A written request must be submitted to the Court by the parent or guardian detailing the purpose and need for such funds;
- 2) If approved, the parent or legal guardian must maintain records and account to the Court in sufficient detail to demonstrate that the funds were expended as required; and
- 3) Other requirements of the HCN or federal law apply.

DISTRIBUTIONS FOR LEGALLY INCOMPETENT MEMBERS:

Distributions for legally incompetent members are handled as set forth immediately above, in the section for obtaining Court approval. The same Court procedures apply for obtaining funds for legally incompetent members.



HO-CHUNK NATION
PEOPLE OF THE BIG VOICE

DEATH:

Upon receiving notice from the Office of Tribal Enrollment, any Beneficiary who passes away before receiving a Distribution shall have his or her funds locked by the Trustee until a certified Order from the Court is provided directing distribution of the beneficiary's Trust account. Any debts to the Ho-Chunk Nation must be satisfied prior to distribution upon verification with the Ho-Chunk Nation Treasury Department, the Ho-Chunk Nation Department of Justice and the Ho-Chunk Nation Trial Court.

TAXES:

TAX RETURNS MUST BE FILED EACH YEAR!

Per capita payments are federally taxable income. The per capita payments for the minors deposited in the Ho-Chunk Nation Minors Trust are federally taxable income. As required by the IRS, a tax withholding is made by HCN. A tax withholding is a portion of money held back from the total distribution and sent to the IRS (U.S. Treasury) as an estimate of the taxes that will be owed on the total distribution of money.

Tax withholdings are only an estimate of taxes on your per capita income deposited to your Trust account and does not include taxes owned on the investment income. The amount of taxes you will owe when you file your personal tax return at end of each year is based on a variety of things including: the investment income earned by the Trust, other personal income you received during the year, marital status, children, and personal tax deductions.

Whether the per capita payments are state taxable income is mostly determined by whether you live on the Ho-Chunk reservation. Most states will not tax per capita payments if you live on the reservation, including the state of Wisconsin. So, if you do not live on the reservation, then the per capita payments will generally be taxable. In all cases, whether you are a Wisconsin resident or not, or whether you live on the Ho-Chunk Nation reservation, you should have your tax return preparer check state income tax laws because not all state tax laws are the same.

Even if your per capita payment is taxable by state taxing authorities, you should also check what credits and deductions are available to you. Wisconsin, for example, has tax credits for many situations which will reduce taxes. Help your tax return preparer understand all your circumstances to determine what credits and deductions might apply.

As noted above, federal income tax is withheld on your per capita distributions. This is not true for state income taxes. There is no withholding of state income taxes. You will need to pay the amount of state income taxes and those taxes can also be paid directly from the Trust account.

Failure to file tax returns or pay the proper taxes will result in later assessments of penalties and interest.

TWO DOCUMENTS NEEDED FOR YOUR TAX RETURNS:

You will need these two documents for preparation of your income tax returns:

(1) Form 1099 from HCN: In January of each year, HCN will send you an IRS Form 1099, which reports the amount of per capita income you must report as federally taxable income and the amount of tax withholding for the previous calendar year.

(2) Schedule K-1 from PFTC: In late February or March, PFTC will send you a Schedule K-1. Schedule K-1 reports how much taxable income was attributed to you from all Trust investments, whether it be interest, dividends or realized gains.

You will use these two forms to complete your personal tax returns. Please keep in mind that the Schedule K-1 is not an indication of the market performance of your investments. The Schedule K-1 only indicates the taxable income under IRS rules and laws.





HO-CHUNK NATION
PEOPLE OF THE BIG VOICE

TRUST DISTRIBUTIONS FOR TAXES AND TAX PREPARATION SERVICES:

Your child's Trust Account can pay for: any additional taxes that may be owed, estimated tax payments, and the tax preparation fees. In order to direct and authorize payments from your child's Trust Account for taxes you will need to complete the "Ho-Chunk Nation Minor's Trust Tax Distribution Form," attach the needed documents, and send it in to PFTC.

If you are requesting a distribution for additional taxes owed, you will need to attach the first few pages of the tax return and the payment slip or voucher. PFTC will make payment directly to the government. No refunds are permitted—excess tax payments are to be rolled over to future years.

If you are requesting a distribution for estimated taxes, then you will need to attach the first few pages of the tax return and the estimated tax slips or vouchers. PFTC will make payment directly to the government during the first quarter of each quarter for the entire year.

If you are requesting a distribution for tax preparation services, you will need to attach the invoice from the tax preparer and PFTC will make payment directly to the tax preparer.

CONFIDENTIALITY:

We consider each Trust account confidential and have numerous safeguards to ensure all personal information is kept secure. We do not release this information to anyone but you, as the guardian, and the tribal and other government entities as needed. When your child reaches the age of 18, he or she is considered an adult, and we will only be able to interact with that child (who is now a legal adult) directly unless we are authorized to interact with you, as the parent. To ensure confidentiality and security through telephone conversations, we will ask a few security questions when you call. All of your child's confidential and personal information that we receive is kept in a secure location – both electronically and physically.

BACKGROUND OF THE TRUSTEE AND INVESTMENT MANAGER:

Providence First Trust Company is an independent trust company. PFTC serves approximately 30,000 Native American children and youth throughout Indian Country. Our staff exclusively interacts with Native American children and parents every day. Our management team has extensive experience with the legal and tax issues concerning these Native American trusts. We have now individually reviewed thousands of HCN tax returns prepared by a large number of tax return preparers for HCN minors and we are familiar with the issues related to those tax returns.

Key Bank is the investment manager of the Minors Trust investment portfolio. The investment objective of the portfolio is to preserve capital and provide growth over the long term. Key Bank has extensive experience and expertise.

CONTACT INFORMATION:

You may contact us at any time with any questions related to your Minor's or Legally Incompetent Member's Trust accounts.

To contact Providence First Trust Company:

- By mail: 8840 East Chaparral Road, Suite 250
Scottsdale, AZ 85250
- By phone: 1-800-350-0208 (toll free)
Or (602) 952-2300
- By email: hcn@providencefirst.com
- By fax: (602) 952-0018

