



## HO-CHUNK NATION LEGISLATURE

*Governing Body of the Ho-Chunk Nation*

### IMPORTANT ANNOUNCEMENT REGARDING THE HO-CHUNK NATION MINOR'S TRUST

The Ho-Chunk Legislature has approved a restatement of the Minors Trust into what is known as an IGRA Grantor Trust, which will take effect in May 2018. This change has been discussed during the past few years and was approved this week. This approved restatement will not change anyone's trust balance or when anyone receives their trust funds, but will only change the tax and legal status of the Minors Trust for these reasons:

- 1) To ensure individuals will no longer lose government assistance and benefits due to their Minors Trust; and
- 2) To allow the per capita and trust funds to grow tax deferred so there is no taxable income and that no one needs to file a tax return until trust distributions are made.

These are the two main reasons and advantages of this approved restatement: government benefits and tax-deferral. This change was recommended by the Nation's Trust & Investment Committee, the Children's Trust Fund (CTF) Task Force, our attorneys and the current Trustee of the Minors Trust (Providence). The Ho-Chunk Minors Trust will now be considered an "IGRA Trust" (Indian Gaming and Regulatory Act). Almost all other Native American Nations have an IGRA Trust for their minors.

#### Government benefits:

Prior to this approved restatement, Ho-Chunk some minors and incompetent adults were being denied government assistance and benefits from the Social Security Administration and other government agencies because they were treated as if they owned the assets of their trust accounts and were therefore considered too wealthy. This approved restatement will clarify the status of trust assets so that they are no longer considered owners of their respective trust accounts and will be able to receive government benefits and assistance that they would otherwise be entitled to receive. The approved restatement specifically meets all the criteria that the Social Security Administration has set forth.

#### Tax-deferral:

The IRS has the same required criteria as the Social Security Administration, so this approved restatement also meets the requirements of the IRS to be considered an IGRA Trust and defer the taxes on per capita and trust income. Under the old Trust provisions, minors were required to pay income taxes on each year's per capita and trust income. Now, under the approved restatement, minors will only be required to pay income taxes at the time their trust is distributed. Please note that income taxes will not need to be paid on any trust amounts previously taxed, only on new growth and income, and the trustee will track this for you. Since this change is occurring in the middle of 2018, tax returns will still be needed for the year 2018 and these

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returns must be filed by April 15, 2019. Then, no per capita or trust income will be reported as taxable income and beginning with tax year 2019, minors will no longer need to file income tax returns each year. This is a big benefit to the Minors Trust allowing the trust to grow tax-deferred and not requiring each child to have to file a tax return each year.

The legal and technical disadvantage of this change in classification involves the potential legal claims of general creditors of the Ho-Chunk Nation. When the Nation enters into agreements with creditors it can exempt certain assets such as the Minors Trust from future claims, which it has done in the past. In the future, explicit reference will be made to exempt the assets of the Minors Trust from all potential claims.

If you have questions about the trust in the future you can contact the following people at Providence First.

Jason Fuller and Stephen Fuller of Providence (the trustee) can help with questions related to trust administration. They can be reached at [JMF@providencefirst.com](mailto:JMF@providencefirst.com) and [SF@providencefirst.com](mailto:SF@providencefirst.com), respectively.

