



The Grand Traverse Band of Ottawa and Chippewa Indians

Legal Department

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TO: Joyce Wilson, GTB Higher Education Specialist
FROM: John F. Petoskey, General Counsel *John Petoskey*
RE: GTB Minors Per Cap Trust Fund
DATE: December 15, 2004

This memorandum is in response to your inquiry regarding whether the Minors Per Capita Trust fund (Trust) maintained by the Grand Traverse Band of Ottawa and Chippewa Indians (GTB, Grand Traverse Band) is an asset owned by minor such that the Trust fund should be counted as a resource for purposes of determining eligibility for educational assistance.

Based on the GTB Tribal law entitled the Revenue Allocation Ordinance, codified at title 18 of the Grand Traverse Band Tribal Code, chapter 16 Section 1605, the Trust instrument and a Private Letter Ruling of the Internal Revenue Service, PLR 114616-98 (attached hereto), which interprets the Tribal law and the Trust instrument, it is my opinion that the assets of the trust are completely owned by the Tribal Council and are not an asset of the beneficiary minor until the minor reaches the distribution age. If the minor does not reach the distribution age or if the minor is disenrolled from the Tribe for any reason, then the assets of the Trust are available for distribution by the Tribal Council for any reason selected by the Council. In addition, the Council has the complete authority and discretion to substitute the funds in the Trust with other assets owned by the Tribe with out the consent or knowledge of the beneficiary.

Based on these principles of the Trust, a beneficiary of the Trust does not have a present ownership interest in the Trust or a constructive ownership interest in the Trust. The Private Letter Ruling of the IRS supports this conclusion that the minor beneficiary of the Trust does not have a present ownership interest in the Trust, nor does the minor beneficiary have a constructive ownership interest in the Trust for federal income tax purposes. I have enclosed the Private Letter Ruling for your review. If you need more information, please call or write me at (231) 534-7279.