

WHO WE ARE

The **Institute for Indian Estate Planning & Probate at Seattle University School of Law** was established by the Indian Land Tenure Foundation (ILTF), a non-profit Minnesota corporation, which recognized a need for a national program focused on estate planning issues in Indian Country. The Institute opened its doors August 1, 2005 at Seattle University School of Law.

The Institute oversees projects in Washington, Oregon, Idaho, North Dakota, South Dakota, Minnesota, and Wisconsin funded by the ILTF. These projects provide free estate planning services to Tribal members.

With the passage of the American Indian Probate Reform Act of 2004, which became effective June 20, 2006, the need for Indian estate planning services has become critical. AIPRA replaces state intestacy laws for Indian trust landowners. The Act penalizes those who do not draft a will or plan for their estate, by limiting who is an eligible heir and permitting forced sales of some small intestate land shares at probate. To complicate matters, the Bureau of Indian Affairs announced in April 2005 that they would stop drafting and storing wills, services they had provided for over 80 years.

The primary objective of the Institute is to grow into a national program that provides education and estate planning services to Indian tribes and their members.

The Foundation and Institute are non-profit and rely on grants and donations to provide its services

Institute for Indian Estate Planning and Probate 2006©

OUR MISSION

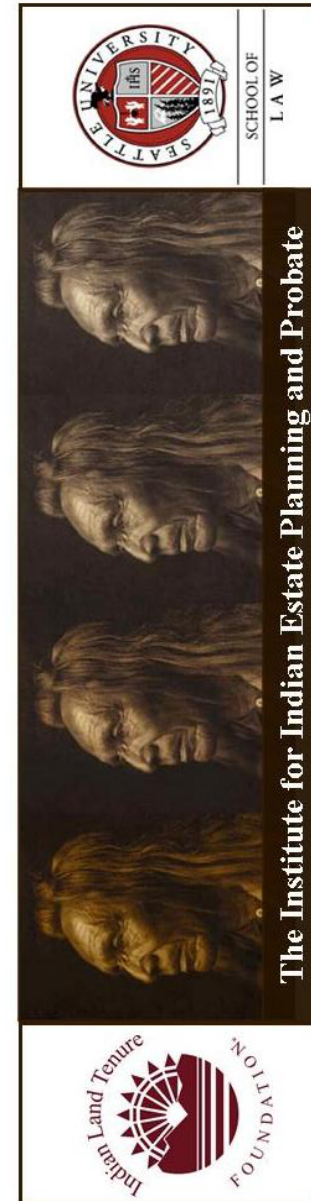
The mission of the Institute for Indian Estate Planning & Probate is to assist Indian people in making informed decisions about their property by:

1. Establishing regional projects which provide free and reduced cost estate planning services to tribal members;
2. Providing training on AIPRA and Indian estate planning for tribal governments, their members, the legal community and federal officials;
3. Assisting tribal governments with tribal probate code drafting and review;
4. Serving as a clearinghouse for current information on Indian estate planning, tribal probate codes, and the American Indian Probate Reform Act.

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Why is Will Writing and Estate Planning Important for Trust Landowners?

If you die without a Will, it is called dying "intestate" which allows federal laws to determine:

Who receives your property, and What amount they will receive and Whether your trust property may be subject to a forced sale at probate

Under a new federal law, the American Indian Probate Reform Act, your trust property will be divided into two categories:

WITHOUT A WILL:

Trust land interests 5% or more will go to:

1. Your legal spouse in a life estate without regard to waste
2. The remainder to all eligible children equally
3. If none, then to eligible grandchildren
4. If none, then to parents
5. If none, then to siblings
4. If none, then to tribe with jurisdiction
5. In none, to the federal government

Trust land interests less than 5% will go to:

1. Your legal spouse in a life estate, but only if the spouse lives on that parcel at the time of your passing
2. The remainder goes to the oldest living eligible child (Single Heir Rule)
3. If none, then to the oldest living eligible grandchild or great grandchild
4. If none, then to tribe with jurisdiction
5. In none, to the federal government

A WILL ALLOWS YOU TO...

Choose the friends and family members you want to receive your trust property and personal property (Beneficiaries)

Leave your trust property in trust status to any of your children or their children (lineal descendants) whether or not they are an enrolled member or qualify as Indian

Choose what property and in what amounts should go to specific people (Distribution)

Choose a trusted person to oversee the administration and distribution of your non-trust property after death (Personal Representative)

Provide for your non-tribal spouse or non-tribal family member to enjoy the benefits of trust property and any income from the property for their lifetime. (Life Estate)

Reconsolidate trust property

Prevent any forced sales of trust lands during probate of your estate

TRIBAL PROBATE CODES

Under the new federal law, an approved tribal probate code can change the definitions and intestate rules of AIPRA governing the decent and distribution of the trust or restricted lands under its jurisdiction.

HOW TO CONSOLIDATE TRUST LANDS WITH ESTATE PLANNING...

There are many ways to reconsolidate trust lands, such as leaving all interests to one person. It's also possible to consolidate your lands without having to choose one family member over another:

Give a Life Estate to your spouse and or to your children so they can enjoy the property and any income from it for their life, then give the remainder to one eligible heir or the Tribe

If you hold several different fractionated interests, leave each child one of your interests, or give all interests to one child and give the other children life estates in the trust lands

Give to your children or another group as "joint tenants with right of survivor." (JTROS)

Request a sale at probate of your fractionated interests with proceeds going to your estate to share equally among the heirs you choose

Transfer your interests during your life time (Gift Deed or Consolidation Agreement)