

(d) An interest included in an approved agreement may not be purchased at probate without consent of the owner of the consolidated interest.

[73 FR 67289, Nov. 13, 2008, as amended at 76 FR 7507, Feb. 10, 2011]

§ 30.152 May the parties to an agreement waive valuation of trust property?

The parties to a settlement agreement or a consolidation agreement may waive valuation of trust property otherwise required by regulation or the Secretary's rules and requirements. If the parties waive valuation, the waiver must be included in the written agreement.

§ 30.153 Is an order approving an agreement considered a partition or sale transaction?

An order issued by a judge approving a consolidation or settlement agreement will not be considered a partition or sale transaction under 25 CFR part 152.

Subpart G [Reserved]

Subpart H—Renunciation of Interest

SOURCE: 86 FR 72084, Dec. 20, 2021, unless otherwise noted.

§ 30.180 May I give up an inherited interest in trust or restricted property or trust personalty?

You may renounce an inherited or devised interest in trust or restricted property, including a life estate, or in trust personalty if:

- (a) You are 18 years or older and not under a legal disability; or
- (b) You are an entity.

§ 30.181 When may I renounce a devised or inherited interest?

(a) If the judge has not yet issued a decision, you may renounce a devised or inherited interest at any time before the issuance of the decision.

(b) If the judge has issued a decision, you may renounce a devised or inherited interest in any property distributed by the decision:

- (1) Within 30 days from the mailing date of the decision; or

(2) Within 30 days of the order on review, in a summary probate proceeding in which a request for review has been filed; or

(3) Before the entry of an order on rehearing, in a formal probate proceeding in which a petition for rehearing is pending.

(c) You may renounce a devised or inherited interest that is added to the decedent's estate after the decision is issued pursuant to § 30.251 within 30 days of mailing the distribution order.

(d) Once the order on rehearing is issued, you may not renounce a devised or inherited interest that was distributed by the decision.

§ 30.182 Who may renounce an inherited interest on behalf of an heir or devisee who dies before the hearing?

If an individual heir or devisee dies before the hearing, a renunciation may be made on his or her behalf by any of the following, if the judge makes a determination that the renunciation is in the best interest of the parties:

(a) An individual appointed by a probate court to act on behalf of his or her private (*i.e.*, non-Federal-trust) estate, including but not limited to a personal representative, administrator, or executor; or

(b) Someone appointed by the judge with the express approval of all the heirs or devisees of the deceased heir or devisee.

§ 30.183 Who may receive a renounced interest in trust or restricted land if the land will descend pursuant to a valid will?

A devisee may renounce an interest in trust or restricted land in favor of any one or more of the following:

- (a) A lineal descendant of the testator;
- (b) A co-owner;
- (c) The Tribe with jurisdiction over the interest; or
- (d) Any Indian.

§ 30.184 Who may receive a renounced interest in trust or restricted land if the land will descend by intestate succession?

(a) If the interest in trust or restricted land represents 5 percent or more of the entire undivided ownership

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of the parcel, you may renounce that interest in favor of one or more of the following:

- (1) Eligible heirs of the decedent; or
- (2) The Tribe with jurisdiction over the interest.

(b) If the interest in the trust or restricted land represents less than 5 percent of the entire undivided ownership of the parcel, you may renounce that interest in favor of only one person or entity listed in paragraph (a) of this section, or to one Indian person related to you by blood.

§ 30.185 Who may receive a renounced interest in trust personalty?

You may renounce an interest in trust personalty in favor of any person or entity.

§ 30.186 How do I renounce an inherited interest?

To renounce an interest under § 30.180, you must file with the judge a written declaration or Tribal resolution specifying the interest to be renounced. The declaration must be signed by you and acknowledged before a notary or judge. The Tribal resolution must be approved by appropriate Tribal authorities.

(a) In your declaration, you may retain a life estate in a specified interest in trust or restricted land and renounce the remainder interest, or you may renounce the complete interest.

(b) If you renounce an interest in trust or restricted land, you may either:

(1) Designate an eligible person or entity meeting the requirements of § 30.182 or § 30.183 as the recipient; or

(2) Renounce without making a designation.

(c) If a distribution order to add property to the decedent's estate is issued, you may renounce an inherited interest in the property to be added by notifying the judge in writing of your intent to renounce the interest within 30 days of the mailing date of the distribution order.

§ 30.187 What happens if I do not designate any eligible individual or entity to receive the renounced interest?

If you do not designate any individual or entity to receive the re-

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nounced interest, or if you designate an individual or entity who is not eligible to receive the renounced interest, the interest will descend to the decedent's heirs or devisees as if you predeceased the decedent.

§ 30.188 What steps will the judge take if I designate a recipient?

If you choose to renounce your interests in favor of a designated recipient, the judge will determine whether the designated recipient is eligible to receive the interest. If the designated recipient is eligible, the judge must notify the designated recipient of the renunciation.

§ 30.189 May my designated recipient refuse to accept the interest?

Yes. Your designated recipient may refuse to accept the interest, in which case the renounced interest will descend to the devisees or heirs of the decedent as if you had predeceased the decedent. When the judge notifies the designated recipient of the renunciation, the judge will specify a deadline for the recipient to file a written refusal to accept the interest. If no written refusal is received before the deadline, the interest will descend to the designated recipient.

§ 30.190 Are renunciations that predate the American Indian Probate Reform Act of 2004 valid?

Any renunciation filed and included as part of a probate decision or order issued before October 27, 2004, the effective date of the American Indian Probate Reform Act of 2004, remains valid.

§ 30.191 May I revoke my renunciation?

A written renunciation is irrevocable when the applicable order distributing the renounced property becomes final.

§ 30.192 Does a renounced interest vest in the person who renounced it?

No. An interest in trust or restricted property renounced under this subpart is not considered to have vested in the renouncing heir or devisee, and the renunciation is not considered a transfer by gift of the property renounced.