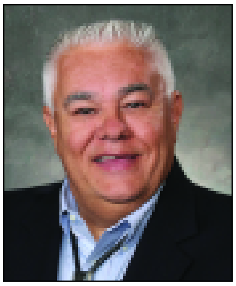

Secure Tribal Youths' Future With Minors' Trust

by Steve Stallings

As a tribal employer operating a profitable casino you've probably spent a lot of time thinking about the growth of your business, which includes the best way to make distributions. You've also probably considered the worst case scenario and thought of contingency plans to provide for your tribe should business decline. For example, you might consider establishing a minors' trust for tribal youth, which may help fund your tribe's obligation to future generations. Minors' trusts are a great way to look forward and plan for the interests of future generations.

As you develop your plans, you may want to consider leveraging the many tools, products and services available through a financial services provider. They can provide you with resources, help you navigate through complex and changing regulations, plan for changes in the gaming industry or help you venture into different business venues.

Investing

A minors' trust, in essence, is a non-qualified arrangement where a tribe uses a reserve fund, investment account or trust to tax-effectively save money for the benefit of its younger members. If a tribe uses a trust, the deposits and earnings accumulate, typically tax-deferred. The money in a minors' trust is invested and held until the minor is eligible for a distribution. For instance, at eighteen, a child may begin receiving yearly payments from the trust, and by twenty-one years old be paid all of the money in the trust account. Additionally, there are limited ways to receive an unscheduled payment from the trust for the purchase of specific items and services.

Minors' trusts should be handled by professional investment advisors and invested according to the age of the child and the tribal investment policy. Typically, younger children will have investments that grow and pay interest differently than the investments chosen for older children or young adults. Regular statements will help monitor the growth of the investment.

Income Tax Considerations

A Minors' trust account does not have to pay income taxes, and the child pays income taxes only when a payment is received from the trust. The amount of tax, if any, depends on how much is received from the trust for the child, in addition to any other income and deductions due. When a child receives more than $8,750 (for 2007, this amount changes yearly) in one year from the trust then the trust will start to withhold and pay income taxes directly to the IRS for that year.

If a child does receive a distribution from the trust during the year, the child will receive a tax form, "Form 1099MISC," and will usually need to file a U.S. Tax Return to pay taxes on that amount plus any other income.

Fund Disbursement and Contingency Language

Distributions can be made in a lump sum or in installments. Tribes have been known to set conditions on what the money can be used for, whether a recipient must complete school or at what age the recipient can receive the money. It's important to check with a tax attorney to determine what consequences accompany this type of contingency language in a minors' trust.

A simple example of contingency language for disbursements would be as follows: When a child turns eighteen years old, they become eligible to start receiving yearly payments from the trust, which are paid on or around the child's birthday. The amount paid depends on whether or not the child has a high school diploma or G.E.D. Yearly disbursement for a child that has a diploma or a G.E.D:

- 10% of the total trust account on the child's 18th birthday
- 40% of the total trust account on the child's 19th birthday
- 25% of the total trust account on the child's 20th birthday

Yearly disbursement for a child that has not graduated from high school:

- 5% of the total trust account on the child's 19th birthday
- 10% of the total trust account on the child's 20th birthday

When a child turns twenty-one years old, whether or not he or she has graduated from high school, all of the trust account may be paid and when the child has received that payment, the trust will end.

Unscheduled Trust Disbursements

There are different types of unscheduled disbursements that a child's trust may make when the child is a minor. Children eighteen years of age and older typically do not receive unscheduled disbursements from their trust. The most common reason for an unscheduled disbursement would be for health, education or income tax payments and clothing allowances.

1) Health Payments - the trust may pay up to a predetermined dollar amount per year for health services.

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2) Education Payments - two common education payments the trust may make is for a computer or tuition expenses.

3) Income Tax Payments - the trust may pay for the additional income taxes caused by what the child has received from the trust account.

4) Clothing Allowance - a clothing payment up to a pre-determined dollar amount per year is often times allowed for children.

A Financial Partner

Select a custodian that you feel comfortable with, and a financial services provider that you trust. Your provider should offer multiple channels (e.g., in-person, phone, internet) to service your account and in the beginning should take time to review and even help develop a tribal investment policy by educating tribal decision makers on investment strategies. The provider should also be willing to assist in educating tribal members with financial literacy training-especially money management for minors before they turn 18 years of age and begin receiving trust distributions. ♣

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