

GUIDELINES FOR FINANCIAL INSTITUTIONS

Pennsylvania Interest on Lawyers Trust Account Board

March 4, 2011

INTRODUCTION

Act 59 of 1988 enacted the "Lawyers' Trust Accounts Act" and created a nonprofit charitable/educational corporation to administer a fund to provide legal services for the indigent and further access to the justice system. In July, 1996 the Supreme Court of Pennsylvania assumed jurisdiction for the IOLTA program and required that all Pennsylvania licensed attorneys use IOLTA accounts for all qualifying funds they handle in their practice of law. The "IOLTA" ("Interest on Lawyer Trust Accounts") Program receives the interest generated by qualified funds deposited by attorneys and law firms in unsegregated interest-bearing accounts designated IOLTA accounts.

The basic guidelines and forms contained in this document have been prepared by the Pennsylvania Interest on Lawyers Trust Account Board in consultation with representatives from the Pennsylvania Bankers Association and the Pennsylvania Association of Savings Institutions.

The guidelines are designed to answer questions regarding the IOLTA program. The operations outlined are not necessarily the only means of compliance with IOLTA requirements; however, financial institutions should consult with the Pennsylvania Interest on Lawyers Trust Account Board staff or their own counsel before choosing procedures other than those outlined.

If you have any questions after reviewing this material, please direct them to the Pennsylvania Interest on Lawyers Trust Account Board, P.O. Box 62445, Harrisburg, Pennsylvania 17106-2445; #717/238-2001.

QUESTIONS AND ANSWERS

WHAT IS AN IOLTA ACCOUNT?

An IOLTA account consists of qualifying client funds received in the ordinary course of the practice of law which have been deposited by an attorney or law firm into an unsegregated, interest-bearing deposit escrow account with check writing capability. The interest from the account is remitted to the IOLTA Board to be used for the charitable purposes of the IOLTA program. Funds which are qualified for deposit by attorneys are those which are nominal in amount or which will be held for such a short term that sufficient interest income will not be generated in excess of the costs incurred to secure net income for the client. Qualified funds include moneys received from any client or beneficial owner which are too small in amount or are expected to be held for too short a period of time to generate net economic benefit for the client or beneficial owner.

WHICH INSTITUTIONS MAY OFFER IOLTA ACCOUNTS?

Financial institutions eligible to maintain IOLTA accounts are banks, bank and trust companies, trust companies, savings banks, savings and loan associations, or foreign banking corporations, whether incorporated, chartered, organized or licensed under the laws of the Commonwealth of Pennsylvania or the United States, doing business in Pennsylvania and insured by the Federal Deposit Insurance Corporation, or an alternate share insurer, that have been approved by the Supreme Court of Pennsylvania. To be approved, financial institutions must sign an agreement with the Court that the financial institution will report checks that are presented against insufficient funds on fiduciary accounts, including IOLTA accounts, maintained by attorneys. Information concerning overdraft reporting and the bank approval process can be obtained from the Pennsylvania Lawyers Fund for Client Security, (800) 962-4618.

HOW WILL ATTORNEYS ESTABLISH IOLTA ACCOUNTS?

All attorneys licensed to practice in Pennsylvania will receive information about the IOLTA program and their duty to establish IOLTA accounts. Attorneys or law firms - sole practitioners, partnerships or professional corporations - should send an enrollment form (see attached Enrollment Form for Lawyers and Law Firms) to their financial institution with a copy to the Pennsylvania Interest on Lawyers Trust Account Board located in Harrisburg.

It is not necessary for each attorney in a law firm to establish his or her own IOLTA account. In order to minimize service charges and maximize interest to the Program, law firms are encouraged to open a single IOLTA account for use by the entire firm.

Attorneys can establish IOLTA accounts at financial institutions either by converting an existing unsegregated, non-interest-bearing client escrow account to an interest-bearing IOLTA account or opening a new interest-bearing IOLTA account for this purpose using either the form provided by the Pennsylvania Interest on Lawyers Trust Account Board or a similar form designed and supplied for this purpose by the financial institution.

HOW SHOULD THE BOARD BE NOTIFIED OF AN ACCOUNT OPENING?

The Pennsylvania Interest on Lawyers Trust Account Board wishes to have in its records a confirmation that an attorney or law firm has opened an account with a given financial institution. A copy of the enrollment form used by the financial institution to open an IOLTA account must be mailed by the financial institution with the next remittance report to the Pennsylvania Interest on Lawyers Trust Account Board in Harrisburg for its records.

HOW SHOULD IOLTA ACCOUNTS BE REGISTERED?

An attorney may establish and maintain an IOLTA account by designating the account as "(name of attorney or law firm) IOLTA account". The term "IOLTA" need not be placed on checks or deposit slips.

WHAT ARE THE TAX CONSEQUENCES OF IOLTA ACCOUNTS?

The Internal Revenue Service has concluded that the IOLTA Program is the beneficial owner of the interest accrued and that as a non-profit organization under section 501 (c)(3) of the Internal Revenue Code, there is no tax liability to the Program. Therefore, it is not necessary that either Forms W-9 or 1099 be used in connection with IOLTA accounts. If your institution's system requires the entry of a TIN, please use the TIN assigned to the Pennsylvania Interest on Lawyers Trust Account Board (25-1802119), not the TIN of the attorney or firm which established the account nor that of a client. If your system cannot suppress issuance of Form 1099's, then please send the forms issued to the Pennsylvania Interest on Lawyers Trust Account Board, not to the participating attorney or law firm.

WHO DETERMINES WHETHER FUNDS ARE "QUALIFIED" FOR DEPOSIT?

Attorneys are required to use their good faith judgment to determine whether funds are qualified for deposit in an IOLTA account. Financial institutions have no duty to inquire or determine whether deposits consist of qualified funds.

WHAT IS AN INSTITUTION'S LIABILITY FOR PAYMENT OF FUNDS?

Payment from an IOLTA account to or upon the order of the attorney maintaining the account shall be a valid and sufficient release of any claims by any person or entity against any financial institution for any payments so made. Any remittance of interest to the IOLTA Program by a financial institution under this section shall be a valid and sufficient release and discharge of any claims by any person or entity against the financial institution for any payment so made, and no action shall be

maintained against any financial institution solely for opening, offering or maintaining an account, or for remitting any interest to the IOLTA Program.

WHAT RATE OF INTEREST MUST BE PAID ON IOLTA ACCOUNTS BY LAW?

The rate of interest paid on IOLTA accounts shall not be less than the highest rate of interest generally available from the financial institution to depositors generally for accounts with the same minimum balance and other account eligibility requirements. Under no circumstances may the rate of interest payable on an IOLTA Account be less than the rate paid by the depository institution on negotiable order of withdrawal accounts or super negotiable order of withdrawal accounts.

WHAT ABOUT CONFIDENTIALITY?

Except for forms which are required for submission to the Board and the attorney or law firm that maintains the account, all papers, records, documents or other information identifying an attorney, client or beneficial owner of an IOLTA account shall be confidential and shall not be disclosed by a financial institution except with the consent of the attorney maintaining the account or as permitted by law or Supreme Court rule.

HOW MUST INTEREST BE CALCULATED?

Institutions may use whatever calculation method they employ for other interest-bearing accounts with check writing capability as they normally use for other customers of the financial institution.

HOW SHOULD INTEREST BE REMITTED TO THE PROGRAM?

Each financial institution which maintains IOLTA accounts must remit at least quarterly any interest earned on the account to the IOLTA Program. Institutions should remit interest on a consolidated basis from all IOLTA accounts maintained either in the form of a check, automated clearinghouse (ACH) transfer or wire transfer to the Pennsylvania Interest on Lawyers Trust Account Board on or before the 10th business day following the close of the period. The Program maintains its principal account with FULTON BANK, Lancaster, Pennsylvania.

For further information, please contact Pennsylvania Interest on Lawyers Trust Account Board, P.O. Box 62445, Harrisburg, PA 17106-2445; #717/238-2001. Our web site is www.paiolta.org.

HOW SHOULD REPORTS BE ISSUED?

At the time interest is remitted, a statement showing at least the name and account number of the account, gross interest earned, service charges or fees deducted, if any, and the amount of interest remitted from the account must be sent to the IOLTA Program, as well as to the attorney who maintains the IOLTA account. Additionally, the report should indicate the rate of interest credited for the IOLTA account. If available, the IOLTA Program requests the average daily collected balance for the account for the reporting period and a total of the number of accounts reported for the reporting period. Institutions which maintain multiple IOLTA accounts should issue a consolidated report to the IOLTA Program. (See attached "Interest Remittance Report" for suggested reporting format.)

MAY IOLTA ACCOUNTS BE ASSESSED SERVICE CHARGES?

Financial institutions may impose reasonable service charges for the administration of IOLTA Accounts. A financial institution may not deduct service charges from the principal balance in an IOLTA Account. Reasonable service charges, as well as regular account maintenance fees and

transaction charges, can be deducted against the total amount of interest to be paid on the IOLTA Account to which the service charges apply.

HOW SHOULD SERVICE CHARGES BE POSTED?

Interest remitted to the IOLTA Program should be net of any service charges assessed. For certain accounts, deducting service charges from interest accrued may result in a deficiency of interest. In such cases, institutions may not deduct the balance of the unpaid service charge from the principal in the account, nor may the excess service charges be deducted from the IOLTA interest earned on other accounts at the financial institution.

WHAT ABOUT NON-ROUTINE CHARGES OR FEES?

All costs associated with check printing, overdraft charges, charges for a temporary extension of credit and similar bank charges shall not be assessed against the principal balance in or interest earned on any accrued interest earned on an IOLTA Account. The lawyer maintaining the account shall be responsible for these costs. Costs for services such as overdrafts on deposited items, stopped payments, certified checks, and wire transfers at the request of the lawyer or a beneficial owner shall not be assessed against principal balance in or interest earned on an IOLTA Account. The lawyer or the beneficial owner shall be responsible for these costs.

As a general rule, a lawyer may not co-mingle the lawyer's own funds with Rule 1.15 Funds. However, the lawyer may deposit funds in an IOLTA Account in order to cover costs which may not be charged to the income or principal held in the IOLTA Account. The lawyer must maintain accurate records regarding those funds.

MUST NEW CHECKS BE ISSUED IF AN EXISTING ACCOUNT IS CONVERTED?

No. The revised account title can be printed on the next check order. If an attorney receives new checks for whatever reason, financial institutions should request payment for the checks from the attorney.

HOW MAY AN INSTITUTION RECONCILE AN ERROR IN INTEREST REMITTANCE?

Should an institution discover an overpayment or other error in its remittance, it should write to the Board concerning the error as soon as possible. Reconciliation of the problem will be prompt, however, since the Board awards grants annually, refunds will not be made for periods of time longer than twelve months from the date of the written request.

CONCLUSION

Your institution's participation in the IOLTA program is vital to the success of this much-needed effort to supplement funds to provide civil legal services and enhance access to the justice system for those who would otherwise be denied. The data outlined above are guidelines. Feel free to contact the IOLTA Program's staff if you have problems or suggestions which would improve the operations of this program. The IOLTA Program will strive to accommodate whatever modifications and changes which will not jeopardize the intent of the program.

**Pennsylvania Interest on Lawyers Trust Account Board
Pennsylvania Judicial Center
601 Commonwealth Ave, Suite 2400
P.O. Box 62445
Harrisburg, PA 17106-2445**

GUIDELINES FOR FINANCIAL INSTITUTIONS

Financial institutions maintaining Interest on Lawyers' Trust Accounts (IOLTA) must remit, at least quarterly, the interest earned from these accounts to the Pennsylvania Interest on Lawyers Trust Account Board.

The remittance can be made by check, wire transfer, or automated clearinghouse (ACH) credit. The remittance must be made on or before the 10th business day following the close of the period.

Please contact the PA IOLTA Board for instructions for remittances.

PROCEDURES FOR INSTITUTIONS USING THE PA IOLTA ACH TRANSFER SERVICE TO REMIT INTEREST TO THE BOARD

Financial institutions that maintain fifty IOLTA accounts or less and do not assess service charges on IOLTA accounts can take advantage of an ACH transfer procedure initiated by the Board. This procedure simplifies the financial institution's responsibilities by allowing the Board to transfer the interest thus, eliminating the need for the financial institution to dispense a check or wire the funds to the program.

Each IOLTA account newly established by the financial institution must be accompanied by an enrollment form (see attached). This enrollment form serves as the basis to establish the account on the Board's database. Interest must be reported for each open account monthly as described in the following paragraphs.

The Board will transmit the account numbers and titles as they appear on the Board's database for the period to be reported by the 5th day of the month. The financial institution's contact person must verify the account numbers and titles and make any changes. If an account has been opened since the previous reporting period and it does not appear on the listing, the account number and title must be added in the space provided at the bottom of the interest remittance report (be sure the Board receives an enrollment form for each new account). If an account has been closed since the previous reporting period, the remaining interest being remitted must be entered and the date of closure must be noted in the far right column of the report. The interest remittance form **must be returned to the Board within five days** to allow enough processing time for the transfer of funds to occur.

For each interest remittance report for the ACH transfer service (see attached), the financial institution's IOLTA contact person must complete the following: the period for which interest is being remitted; the current interest rate; the interest paid for each account (zero interest must be noted); any account number and/or title modifications; along with any new accounts and/or account closures as mentioned above. Once this information is entered onto the interest remittance form, the column must be totaled at the bottom of the form to indicate the total amount of interest being remitted to the Board. When the information is complete, the form should be faxed back to the Board using the fax number (717)238-2003. The Board will process this information and the funds will be transferred by mid-month from the individual IOLTA account to the Board's account.

PENNSYLVANIA IOLTA PROGRAM

INTEREST REMITTANCE REPORT FOR ACH TRANSFER SERVICE

FOR PERIOD: _____

CURRENT
INTEREST RATE: _____

TO: JANE DOE
XYZ BANK
123 ANY STREET
ANYWHERE, PA

FAX: _____
PHONE: _____
ROUTING: _____

FROM: ISABELLE WOZNAK
Pennsylvania Judicial Center
601 Commonwealth Ave, Suite 2400
P.O. Box 62445
Harrisburg, PA 17106-2445

ACCOUNT NUMBER (OR OTHER NOTES)	ACCOUNT DATE CLOSED NAME	INTEREST PAID	SERVICE CHARGES	NET INTEREST	AVG. DAILY BALANCE
123456789	JOHN SMITH	\$	\$	\$	\$
987654321	MARY JONES				

ADD NEW ACCOUNTS BELOW. BE SURE TO SEND ENROLLMENT FORMS.

TOTALS \$ _____ \$ \$ \$ _____

Please complete legibly and FAX this form within 5 days to (717)238-2003. No cover sheet required.

ENROLLMENT FORM FOR LAWYERS AND LAW FIRMS

Pennsylvania IOLTA Program

Federal I.D. #25-1802119

TO: _____
(Name of Financial Institution)

(Street Address)

FROM: _____
(Lawyer or Law Firm)

(Street Address)

DATE: _____ **TELEPHONE:** _____ **E-MAIL:** _____

This enrollment form may be used to open a new Pennsylvania IOLTA account or it may be used to convert an existing Pennsylvania escrow account to an interest bearing IOLTA checking account. The new account number, or the converted account number, is _____ and is titled _____ . You are hereby authorized and directed to transmit immediate notice to the Pennsylvania Lawyers Fund for Client Security* of any check drawn on the trust/escrow account(s) listed above which is presented for payment against insufficient funds. Please contact _____ from the law office if additional information is needed. You are authorized to send a copy of this enrollment form to the Pennsylvania IOLTA Board.

ATTN: Lawyer or law firm administrator:

Attach a **LIST** of all **LAWYERS** who use this escrow account in the regular course of their practice and their **PA SUPREME COURT IDENTIFICATION NUMBERS** before mailing it to the PA IOLTA Board.

ORIGINAL - Financial Institution
COPY- IOLTA Board
Pennsylvania Judicial Center
601 Commonwealth Ave, Suite 2400
P.O. Box 62445
Harrisburg, PA 17106-2445
Fax: 717-238-2003

BY: _____
Authorized Signature should also be an authorized check signer for the listed account(s)

* For overdraft reporting instructions contact (800) 962-4618