

Operating Regulations

Operating Regulations and Procedures for Comprehensive IOLTA Program

Revised June 11, 2009; originally enacted September 15, 1991.

1. Rule 1.15 by its terms, is applicable only to lawyers or law firms to whom “funds of clients” are paid or with whom such funds are deposited. The rule and, therefore, the Interest on Lawyers Trust Accounts (IOLTA) program, is not applicable to any West Virginia lawyers who are not engaged in the private practice of law and who do not receive client funds. Examples of lawyers who do not receive client funds include those who are elected or employed exclusively on a full-time basis by a government entity; those who are employed exclusively on a full-time basis by a private or public corporation, association or other business entity; those who are employed in a non-law related field; and those who are retired.
2. Rule 1.15 is applicable to all lawyers who do receive client funds or with whom such funds are deposited. Participation is not elective with any such lawyer, or with any client of such lawyer.
3. A West Virginia lawyer who maintains an office in a jurisdiction other than the state of West Virginia, and who maintains a pooled trust account for the deposit of funds of clients in a financial institution located in that jurisdiction, is exempt from the provisions of Rule 1.15 requiring payment of interest or dividends from that account to The West Virginia State Bar, if the lawyer or law firm maintains the account in compliance with the laws or rules governing lawyer conduct in the jurisdiction in which the office and the financial institution are located.
4. Not less than annually, each West Virginia lawyer shall file with The West Virginia State Bar a Notice of Compliance with Rule 1.15, specifying the trust account name, account number, and name and address of the financial institution holding the account(s) established by the lawyer or the lawyer’s law firm in compliance with Rule 1.15, or declaring that the lawyer is exempt from compliance with the provisions of the rule. Forms enabling lawyers and law firms to comply with this requirement are available online at <http://wvbar.org/> or upon request from The West Virginia State Bar and shall be furnished without charge to lawyers and law firms.
5. In establishing the pooled interest- or dividend-bearing trust account specified by Rule 1.15, a lawyer or law firm shall direct the depository institution:
 - (a) To pay no less on its IOLTA accounts than the highest interest rate or dividend generally available from the institution to its non-IOLTA customers when the IOLTA account meets or exceeds the same minimum balance or other eligibility qualifications on its non-IOLTA accounts.
 - (b) To remit interest or dividends, net of any allowable reasonable service charges or fees charged by the depository, as computed in accordance with the institution’s standard account practice, at least quarterly, to The West Virginia State Bar;
 - (c) To transmit with each remittance to The West Virginia State Bar a statement, in any form and

through any manner of transmission approved by the Bar State showing the name of the lawyer or law firm on whose account the remittance is sent, the amount of the remittance attributable to each account, the account number for each account, the rate and type of interest or dividend, the amount and type of allowable reasonable service charges or fees, and the average account balance for the reporting period. Banks are encouraged to report electronically via email; for that purpose, the remittance form is available online at <http://wvbar.org/>

(d) To transmit to the depositing lawyer or law firm, at the same time, a report showing the amount paid to The West Virginia State Bar and

(e) To show The West Virginia State Bar, Tax ID No. 55-6000946, as the recipient of the interest, if information returns (Form 1099) are required to be produced by the depository institution.

Forms enabling lawyers and law firms to comply with this requirement are available online at <http://wvbar.org/> or upon request from The West Virginia State Bar and shall be furnished on request and without charge to lawyers and law firms.

6. Specific notice to each client of the use of the pooled interest- or dividend-bearing trust account specified by Rule 1.15 is not required. As a matter of sound professional practice, a lawyer or law firm may choose to advise clients generally of the use of this type of account. The means of advisement may be tailored to the lawyer or the law firm's particular law practice.

7. The determination of whether a particular client's funds are so nominal in amount or are expected to be held for such a short period of time that it is not practical to earn or account for income on the individual deposits therein (and should thus be deposited in the pooled interest- or dividend-bearing trust account specified by Rule 1.15), rests with the good faith and professional judgment of each lawyer or law firm.