



What is IOLTA

IOLTA – Interest on Lawyer Trust Accounts – is a method of raising money to provide funds for civil legal services to the poor. The IOLTA program allows members of the Alaska Bar Association to place client funds, which are nominal in amount or held for a short period of time, into pooled interest-bearing accounts. Interest earned is remitted to the Alaska Bar Foundation (ABF) Board of Trustees, which distributes these funds through the IOLTA grant process to programs that meet our funding requirements. The Alaska Supreme Court adopted the first rules establishing the Alaska IOLTA program, in November of 1986 and it is administered by the ABF Board of Trustees. Currently, Alaska Rule of Professional Conduct 1.15(f) and (g) and Alaska Bar Rule 15.1 govern the IOLTA program.

How Does IOLTA Work

Attorneys routinely receive client funds, securities or other properties to be held in trust for future use. If the trust amount is larger or if it will be held for a long period of time, the attorney has a fiduciary obligation to place these trust properties in an interest-bearing account for the benefit of the client. However, in the case of trust properties that are small or are to be held for a short period of time, it is impractical to establish separate interest-bearing accounts for individual clients. By joining IOLTA, however, attorneys' unsegregated trust accounts can generate interest income, which is sent to the ABF to be used for grants to programs that provide civil legal services to the poor.

Although IOLTA creates income, nothing else is changed: lawyers satisfy their ethical and fiduciary duty to place client funds in a secure account; there is on-demand access to the client's money; and, as in the past, the client realizes no interest income because the nominal or short-term client funds that are pooled in IOLTA accounts are funds that cannot earn net interest for the client.

The Positive Impacts of IOLTA

The Alaska IOLTA program is similar to programs developed in 50 states, the District of Columbia, the Virgin Islands and the Canadian provinces. Since 1981, IOLTA has generated over \$4 billion in revenue throughout the United States. In 2020, IOLTA grants nationwide totaled over \$175 million. IOLTA is a significant source of funding for programs that provide civil legal services to those living in poverty, with over 90 percent of grants awarded by IOLTA programs (~\$168 million in 2020) supporting legal aid offices and pro bono programs.

The ABF IOLTA program funds have been designated to be used solely for the following purposes: Support of legal services to the economically disadvantaged and programs to improve the administration of justice. For information on recent grant recipients, the ABF, or IOLTA you can visit our website [here](#).

Why You Should be Involved

Other than the positive impacts listed above, the Alaska Bar Association Rules of Professional Conduct charges attorneys with the responsibility of ensuring access to justice to those unable to afford it, promoting improvements in the efficient and fair administration of justice and assisting in the understanding of our legal system by the public at large. Attorneys have a professional obligation to contribute to the delivery of legal services to the poor. Participation in the IOLTA program is a convenient, ethical and efficient mechanism to render part of this responsibility.

How to Set Up an IOLTA Account

If you are a new attorney, have changed firms, or are simply changing banks, you will need to open up a new IOLTA account. Follow these steps to set up your account:

1. Complete Waiver of Confidentiality
2. Lookup Alaska IOLTA participating financial institutions
3. Take Notice to Financial Institution form to an Alaska IOLTA participation institution

Q What is a lawyer's "trust" obligation?

A Attorneys routinely receive client funds, securities or other properties to be held in trust for future use. If the trust amount is larger or if it will be held for a long period of time, the attorney has a fiduciary obligation to place these trust properties in an interest-bearing account for the benefit of the client. However, in the case of trust properties that are small or are to be held for a short period of time, it is impractical to establish separate interest-bearing accounts for individual clients.

Q Where have these nominal and short-term properties been deposited in the past?

A They have been held in non-interest-bearing checking accounts separate and apart from all other funds belonging to the lawyer. As Rule 1.15 (a) of the Alaska Bar Association Rules of Professional Conduct has always dictated, trust accounts may never be commingled with lawyers' personal accounts. The lawyer is a fiduciary for these trust account funds and cannot derive any direct or indirect personal benefit from them.

Q What are the tax consequences?

A There are no tax consequences for either the lawyer or the client if IRS requirements are met. The IRS has ruled that the IOLTA program must apply to the nominal and short-term funds of all clients of a participating lawyer (if an individual could elect not to participate in the program, an assignment of income problem would arise).

Q Must clients be notified that a lawyer is joining the IOLTA program?

A No. In the 1982 opinion regarding the nation's first IOLTA program, the Supreme Court of Florida ruled that notification is not necessary to clients whose funds are nominal in amount and are to be held for a short period of time. Some lawyers, however, prefer to inform their clients that they are participating in an IOLTA program.

Q What effect will joining IOLTA have on an attorney's banking relationship?

A Most lawyers experience no change in the relationship relative to their banking institutions.

Q Where does a lawyer draw the line between which funds can be deposited individually and which funds cannot?

A The Alaska Bar Association Rules of Professional Conduct 1.15 (f)(2) states that:
Only funds of clients which are nominal in amount or are expected to be held for a short period of time may be deposited in such (an IOLTA) account. Funds, which reasonably may be expected to generate in excess of \$100 interest, may not be deposited in such account.

Q What effect does IOLTA have on clients?

A IOLTA has no effect on clients. When no interest is earned on funds in attorney trust accounts which are nominal or short-term, no one benefits except the financial institutions. The practical effect of the IOLTA program is to shift a part of the economic benefit from depository institutions to tax exempt organizations. There is no economic injury to any client. The program creates income where there was none before.

Q How does the IOLTA program affect current attorney trust fund practices?

A IOLTA imposes no new decisional burden upon attorneys. Lawyers have always exercised their discretion in determining whether a given client's trust deposit was of sufficient size or duration to justify placement in a separate interest-bearing account, with the interest payable to the client. Under the IOLTA program, attorneys retain their discretion and continue to make these fiduciary decisions after considering associated costs and practicality.

By joining IOLTA, however, attorneys' unsegregated trust accounts can generate interest income, which is sent to the ABF to be used for grants to programs that provide civil legal services to the poor.

Q Is the IOLTA program ethical, constitutional and otherwise legal?

A Yes. IOLTA programs have now been created in 50 states, the District of Columbia, and the Virgin Islands, including 27 programs that require all attorneys to use IOLTA. There have been several decisions by state and federal courts relative to IOLTA challenges which have uniformly upheld the program. www.abanet.org/legalservices/iolta/home.html has the most recent developments in IOLTA litigation. The IRS has approved IOLTA, and the American Bar Association's Standing Committee on Ethics and Professional Responsibility and numerous state bar committees have concluded that attorney participation in IOLTA is ethical and commendable.

Q How is the interest disbursed?

A The bank automatically sends the interest directly to the ABF. The client trust account statements remain the same. No tax liabilities or tax benefits are created by the program for the lawyer or the lawyer's client. Since ABF is the recipient of the interest, the bank uses the ABF federal ID number and sends the 1099's to ABF.

Q Who pays the bank service charges?

A ABF pays all normal banks charges relating to the operation of IOLTA accounts. Client funds are never affected.

Q How do I sign up for IOLTA?

A The process of converting trust accounts is simple. Once it is done no further time or effort on the part of the lawyer is required. The enclosed form should be complete and returned to the ABF.

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Alaska Bar Foundation

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