

CLIENT-ATTORNEY RELATIONSHIP

IOLTA RULES

Amended 1/3/2008, effective 4/1/2008

- (1) The IOLTA program shall be a mandatory program requiring participation by lawyers and law firms, whether proprietorships, partnerships, limited liability companies or professional corporations.
- (2) The following principles shall apply to funds of clients or third persons which are held by lawyers and law firms:
 - (a) No earnings on the IOLTA Accounts may be made available to or utilized by a lawyer or law firm.
 - (b) Upon the request of, or with the informed consent of a client or third person, a lawyer may deposit funds of the client or third person into a non-IOLTA, interest-bearing client trust account and earnings may be made available to the client or third person, respectively, whenever possible upon deposited funds which are not nominal in amount or are to be held for a period of time long enough that the funds would be expected to earn income for the client or third person in excess of the costs incurred to secure such income; however, traditional lawyer-client relationships do not compel lawyers either to invest such funds or to advise clients or third persons to make their funds productive.
 - (c) Funds of clients or third-persons which are nominal in amount or to be held for such a short period of time that the funds would not be expected to earn income for the client or third person in excess of the costs incurred to secure such income shall be retained in an IOLTA Account at an eligible financial institution as outlined above in section (g), with the interest or dividend (net of allowable reasonable fees) made payable to the Louisiana Bar Foundation, Inc., said payments to be made at least quarterly.
 - (d) In determining whether the funds of a client or third person can earn income in excess of costs, a lawyer or law firm shall consider the following factors:
 - (1) The amount of the funds to be deposited;
 - (2) The expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;
 - (3) The rates of interest or yield at financial institutions where the funds are to be deposited;

- (4) The cost of establishing and administering non-IOLTA accounts for the benefit of the client or third person including service charges, the costs of the lawyer's services, and the costs of preparing any tax reports required for income accruing to the benefit of the client or third person;
 - (5) The capability of financial institutions, lawyers or law firms to calculate and pay income to individual clients or third persons;
 - (6) Any other circumstances that affect the ability of the funds of the client or third person to earn a positive return for the client or third person. The determination of whether funds to be invested could be utilized to provide a positive net return to the client or third person rests in the sound judgment of each lawyer or law firm. The lawyer or law firm shall review its IOLTA Account at reasonable intervals to determine whether changed circumstances require further action with respect to the funds of any client or third person.
 - (e) Although notification of a lawyer's participation in the IOLTA Program is not required to be given to clients or third persons whose funds are held in IOLTA Accounts, many lawyers may want to notify their clients or third persons of their participation in the program in some fashion. The Rules do not prohibit a lawyer from advising all clients or third persons of the lawyer's advancing the administration of justice in Louisiana beyond the lawyer's individual abilities in conjunction with other public-spirited members of the profession. The placement of funds of clients or third persons in an IOLTA Account is within the sole discretion of the lawyer in the exercise of the lawyer's independent professional judgment; notice to the client or third person is for informational purposes only.
- (3) The Louisiana Bar Foundation shall hold the entire beneficial interest in the interest or dividend income derived from client trust accounts in the IOLTA program. Interest or dividend earned by the program will be paid to the Louisiana Bar Foundation, Inc. to be used solely for the following purposes:
 - (a) to provide legal services to the indigent and to the mentally disabled;
 - (b) to provide law-related educational programs for the public;
 - (c) to study and support improvements to the administration of justice; and
 - (d) for such other programs for the benefit of the public and the legal system of the state as are specifically approved from time to time by the Supreme Court of Louisiana.
- (4) The Louisiana Bar Foundation shall prepare an annual report to the Supreme Court of Louisiana that summarizes IOLTA income, grants, operating expenses and any other problems arising out of administration of the IOLTA program. In addition, the Louisiana

Bar Foundation shall also prepare an annual report to the Supreme Court of Louisiana that summarizes all other Foundation income, grants, operating expenses and activities, as well as any other problems which arise out of the Foundation's implementation of its corporate purposes. The Supreme Court of Louisiana shall review, study and analyze such reports and shall make recommendations to the Foundation with respect thereto.

IOLTA RULES

Signed 12/13/1990, effective 1/1/1991; signed, effective 5/24/2001; repealed and reenacted 1/20/2004, effective 3/1/2004

- (1) The IOLTA program shall be a mandatory program requiring the participation by attorneys and law firms, whether proprietorships, partnerships or professional corporations.
- (2) The program shall apply to all clients of the participating attorneys or firms whose funds on deposit are either nominal in amount or to be held for a short period of time.
- (3) The following principles shall apply to clients' funds which are held by attorneys and firms.
 - (a) No earnings on the IOLTA accounts may be made available to or utilized by an attorney or law firm.
 - (b) Upon the request of the client, earnings may be made available to the client whenever possible upon deposited funds which are neither nominal in amount nor to be held for a short period of time; however, traditional attorney-client relationships do not compel attorneys either to invest clients' funds or to advise clients to make their funds productive.
 - (c) Clients' funds which are nominal in amount or to be held for a short period of time shall be retained in an interest-bearing checking or savings trust account with the interest (net of any service charge or fees) made payable to the Louisiana Bar Foundation, Inc., said payments to be made at least quarterly.
 - (d) In determining whether a client's funds are nominal in amount, the lawyer or law firm shall take into consideration the following factors:
 - (1) The amount of interest which the funds would reasonably be expected to earn during the period they are to be deposited;
 - (2) The lawyer's cost to establish and administer the account, including the cost of preparing any required tax reports for interest accruing to a client's benefit; and

- (3) The capability of financial institutions to calculate and pay interest to individual clients. The determination of whether funds to be invested could be utilized to provide a positive net return to the client rests in the sound judgment of each attorney or law firm. In making the determination, the attorney or law firm may assume that \$50.00 is a reasonable estimate of the minimum amount of interest that a segregated trust account for an individual client must generate to be practical in light of the costs involved in earning or accounting for any such income.
 - (e) Although notification to clients whose funds are nominal in amount or to be held for a short period of time is not required, many attorneys may want to notify their clients of their participation in the program in some fashion. There is no impropriety in an attorney for the firm advising all clients of the members of the firm's advancing the administration of justice in Louisiana beyond their individual abilities in conjunction with other public-spirited members of their profession. In fact, it is recommended that this be done. Participation in the program will require communication to an authorized financial institution.
- (4) The Louisiana Bar Foundation shall hold the entire beneficial interest in the interest income derived from trust accounts in the IOLTA program. Interest earned by the program will be paid to the Louisiana Bar Foundation, Inc. to be used solely for the following purposes:
 - (a) to provide legal services to the indigent and to the mentally disabled;
 - (b) to provide law-related educational programs for the public;
 - (c) to study and support improvements to the administration of justice, and
 - (d) for such other programs for the benefit of the public and the legal system of the state as are specifically approved from time to time by the Supreme Court of Louisiana.
- (5) The Louisiana Bar Foundation shall prepare an annual report to the Supreme Court of Louisiana that summarizes IOLTA income, grants, operating expenses and any other problems arising out of administration of the IOLTA program. In addition, the Louisiana Bar Foundation shall also prepare an annual report to the Supreme Court of Louisiana that summarizes all other Foundation income, grants, operating expenses and activities, as well as any other problems which arise out of the Foundation's implementation of its corporate purposes. The Supreme Court of Louisiana shall review, study and analyze such reports and shall make recommendations to the Foundation with respect thereto.