



IOLTA Guidelines for Financial Institutions

The Interest on Lawyers Trust Accounts (IOLTA) program is a unique partnership between attorneys and the financial institutions in the community where interest on certain lawyer trust accounts is paid to the New Hampshire Bar Foundation, resulting in a statewide grant program to promote justice.

The IOLTA program in New Hampshire was established in 1982 when the New Hampshire Supreme Court adopted Rule 50 requiring attorneys to “create or maintain an interest-bearing trust account for clients’ funds which are nominal in amount or to be held for a short period of time.”

The portion of Supreme Court Rule 50 pertaining to financial institution guidelines are as follows:

(1) *Interest-Bearing Pooled Trust Accounts.* In addition to any individual client trust accounts, a member of the New Hampshire Bar who is not exempt from this requirement pursuant to Rule 50(1)(F) shall create or maintain a pooled, interest-bearing trust account known as "Interest on Lawyers Trust Accounts program" or "IOLTA" account for clients' funds which are nominal in amount or to be held for a short period of time and must comply with the following provisions:

A. An interest-bearing trust account shall be established with any bank or savings and loan association authorized by federal or State law to do business in New Hampshire and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or other financial institution with adequate federal insurance covering client funds ("financial institution"). Funds in each interest-bearing trust account shall be subject to withdrawal upon demand.

B. The rate of interest payable on any interest-bearing trust account shall be the same rate of interest paid by the depository institution for all other holders of similar accounts. Interest rates higher than those offered by the institution on regular checking or savings accounts may be obtained by a lawyer or law firm on some or all deposited funds so long as there is no impairment of the right to withdraw or transfer principal immediately.

C. Lawyers, law firms or others acting on their behalf when depositing clients' funds in a pooled, interest-bearing account shall direct the depository institution:

(i) to remit interest or dividends, as the case may be, at least quarterly, to the New Hampshire Bar Foundation; and,

(ii) to transmit with each remittance to the Foundation a statement showing the name of the lawyer or law firm for whom the remittance is sent, the account number(s), and rate of interest applied for the reporting period; and

(iii) to transmit to the depositing lawyer or law firm at the same time a report showing the accounts number(s), rate of interest applied for the reporting period, and amount paid to the Foundation.

The complete version of Supreme Court Rule 50 may be found at

<http://www.courts.state.nh.us/rules/scr/scr-50.htm>.

The following is an overview of other established IOLTA guidelines:

Title of Account: "IOLTA" or "CLIENTS FUNDS" should appear in the title of the account, along with the attorney or firm name and address.

Tax Identification Number: The account will show the New Hampshire Bar Foundation's taxpayer identification number (02-0333762) as the recipient of interest. In addition, neither the IRS nor the New Hampshire Bar Foundation requires that a 1099 be generated on IOLTA accounts. If a 1099 is generated, it should reflect the Foundation's TIN.

Service Charges: Virtually every financial institution participating in the IOLTA program in New Hampshire opts to waive all routine service charges on IOLTA accounts due to the charitable nature of the program. In no cases shall bank charges be deducted from the principal.

Interest Rates: Rule 50 states, "the rate of interest payable on any interest-bearing trust account shall be the same rate of interest paid by the depository institution for all other holders of similar accounts. Interest rates higher than those offered by the institution on regular checking or savings accounts may be obtained by a lawyer or law firm on some or all deposited funds so long as there is no impairment of the right to withdraw or transfer principal immediately."

Preferred Financial Institutions: The New Hampshire Bar Foundation is pleased to work with financial institutions to develop IOLTA products and account rates that will maximize the interest earned. These institutions have created a special rate for IOLTA accounts that exceeds the institution's standard NOW rate and waive routine service charges.

Leadership Circle: Financial Institutions that offer 2% or more on IOLTA accounts

Partner Level: Financial Institutions that offer 1% - 1.99% on IOLTA Accounts

Sustaining Level: Financial Institutions that offer 0.50 % - 0.99% on IOLTA Accounts

The Preferred Financial Institutions reflect support for the overall goals of the Foundation and a commitment to community-based banking. These institutions are regularly recognized in Bar Foundation publications, on the Foundation's website and in the *New Hampshire Bar News*, a monthly newspaper sent to all members of the New Hampshire Bar Association.

Form to open an IOLTA account: IOLTA accounts are established with the *Authorization to Financial Institutions* form. This form authorizes the institution to enroll the account in the IOLTA program, to forward earned interest to the Foundation on a monthly basis, and to name the New Hampshire Bar Foundation, taxpayer identification number 02-0333762, as the recipient of interest. A copy of the form with the new account information should be faxed (603-224-2910), emailed (info@nhbarfoundation.org) or mailed to the New Hampshire Bar Foundation, 2 Pillsbury Street, Suite 300, Concord, NH 03301. (It is the attorney's responsibility to forward this form to NH Bar Foundation.)

Interest Remittance: Interest on IOLTA accounts should be remitted to the Foundation on a monthly basis. Effective January 1, 2015, payments are to be remitted via electronic transfer to the NHBFF IOLTA account. On the date of the remittance, the attached excel summary form must be sent to NHBFF's secured email box. The email should include the name and address of the financial institution and the name and telephone number of the contact person.

For questions or additional information, please contact the NH Bar Foundation at 603-715-3210 or email to Info@nhbarfoundation.org.