

Operations Handbook for Financial Institutions

IOLTA & IOTA

Interest on Lawyers' Trust Accounts
&
Interest on Trust Accounts



Operations Handbook for Financial Institutions

**Interest on Lawyers' Trust Accounts (IOLTA)
&
Interest on Trust Accounts (IOTA)**

Ohio Legal Assistance Foundation

10 West Broad Street, Suite 950

Columbus, Ohio 43215

(614) 752-8919 (voice)

(800) 877-9772 (toll-free)

(614) 728-3749 (fax)

www.olaf.org

Operations Handbook for Financial Institutions (2002) - Second Edition

This handbook was produced by the Ohio Legal Assistance Foundation for the sole purpose of providing instruction to participating financial institutions in establishing and maintaining Interest on Lawyers' Trust Accounts (IOLTA) and Interest on Trust Accounts (IOTA) in the state of Ohio. The content of this book is furnished for informational use only and is subject to change without notice. The Ohio Legal Assistance Foundation assumes no responsibility or liability for any errors or inaccuracies that may appear in this book. Updates to this Handbook and supplemental information may be found on the OLAF Web site (www.olaf.org).

July 2002

Dear Financial Institution:

The state of Ohio's IOLTA and IOTA program is an integral part of a comprehensive system of providing resources to assist in the charitable public purpose of delivering legal services in non-criminal matters to impoverished Ohioans. Revenues generated from IOLTA/IOTA deposits comprise more than one-half of the total of state funds distributed to legal aid providers.

On September 6, 2001, the Ohio Legal Assistance Foundation (OLAF) Board of Trustees adopted the final set of Rules governing Interest on Lawyers' Trust Accounts (IOLTA) and Interest on Trust Accounts (IOTA) in the state of Ohio. The adoption of these Rules followed extensive publication, notice, and comment opportunities, including comments submitted by several banks and public testimony by the Ohio Bankers' Association. The effective date of implementation for the Rules is April 1, 2002.

For your information and future reference, the Foundation has updated its Operations Handbook for Financial Institutions to reflect these Rules and current practices and policies. We hope that you find this handbook helpful in the effective and efficient administration of IOLTA and IOTA accounts held at your financial institution. OLAF staff will use the OLAF Web site (www.olaf.org) to post any future updates or corrections to this handbook.

The Foundation has an experienced and knowledgeable staff able to assist your institution with any questions or concerns regarding Ohio's IOLTA/IOTA Program. Please do not hesitate to contact us.

Sincerely,



Robert M. Clyde, Esq.
Executive Director

Handbook Table of Contents

Introduction to IOLTA/IOTA Accounts.....	1
Benefits to Participating Banks.....	2
Opening An Account	3
Characteristics of IOLTA/IOTA Accounts.....	4
Service Charges and Interest Rates.....	5
Interest Remitting and Reporting.....	6
Remittance of Account Proceeds	6
Remittance Report Forms	7
Electronic Templates of Remittance Forms.....	8
Electronic Template Formats	9
Completing Remittance Reports.....	10
Remittance Account Information.....	11
Remittance Process Checklist.....	12
OLAF Rules	13
Ohio Legal Assistance Foundation Overview	15

Appendix

IOLTA/IOTA Statutes

§ 4705.09 Attorneys to Establish Interest-Bearing Trust Accounts; Certain Client Funds;
Transmittal of Interest to Legal Aid Fund; Rule of Professional Conduct

§ 4705.10 Conditions for Handling Interest-Bearing Trust Accounts

§ 3953.231 Interest-Bearing Trust Accounts for Deposit of Escrow Funds

OLAF Forms

Treasurer of State Authorization Agreement for Electronic Funds Transfer Form

IOTA/IOLTA Summary Remittance Form for Financial Institutions

IOLTA/IOTA Detail Remittance Report Form

Introduction to IOLTA/IOTA Accounts

What is IOTA and IOLTA?

IOLTA is the acronym for “Interest on Lawyers’ Trust Accounts” and **IOTA** is the acronym for “Interest on Trust Accounts.” Lawyers and title agents place nominal or short-term deposits, which are held in trust for the client for future use, into these pooled, interest bearing checking accounts. Attorneys are required to use such accounts, in part, because of a prohibition from collecting interest on client funds for themselves, and because the cost of establishing individual accounts for deposit of escrow funds outweighs the gain on any interest earned.

Some examples of the types of funds to be placed in IOTA and IOLTA accounts are retainers, deposits for fees and costs associated with court filings, personal injury awards, litigation settlements prior to disbursement, deposits required to close property transactions, and funds belonging in part to the client and in part to the attorney.

IOLTA/IOTA HISTORY

IOLTA concepts developed in Australia and Canada in the early 1960’s and the first IOLTA program in the United States started in 1981 in the state of Florida. In response to decreased federal funding for civil legal services in the late 1980’s and early 1990’s, state courts and legislatures created IOLTA /IOTA programs to ensure adequate funding for legal aid attorneys assisting low-income clients. By 1995, all fifty states and the District of Columbia had established IOLTA programs.

Ohio’s IOLTA and IOTA Program

The state of Ohio’s IOLTA and IOTA Program is an integral part of a comprehensive system of providing resources to assist in the charitable public purpose of delivering legal services in non-criminal matters to impoverished Ohioans. Revenue generated from the interest earned on these accounts is remitted to a state legal aid fund, which supports the delivery of civil legal services for low-income individuals and households in the state by local legal aid societies.

In 1985, the Ohio General Assembly mandated that all lawyers, who handle client deposits that are nominal in amount or expected to be held on a short-term basis, must maintain an Interest on Lawyers’ Trust Account (IOLTA). Since 1994, OLAF has administered the IOLTA Program and the legal aid fund. In 1995, the Program was expanded to include title agents who must now process their escrow deposits through the Interest on Trust Accounts (IOTA). In 2001, the Ohio Legal Assistance Foundation (OLAF) adopted a set of rules for the operation and administration of the IOLTA/IOTA Program and the legal aid fund.

Under Ohio’s IOTA/IOLTA Program, lawyers and title agents must place qualifying funds into pooled interest-bearing accounts. Accounts may be established with any bank, savings and loan association, or credit union authorized to do business in Ohio and that is certified by OLAF, as provided in its Rules. Financial institutions remit interest to the Treasurer of State for deposit into the state legal aid fund.

Benefits to Participating Banks

Participation in the Ohio IOLTA/IOTA Program by financial institutions is not mandatory, but can result in many significant benefits to the participating institution. Not offering IOLTA/IOTA accounts may negatively impact relationships with current and future clients, including attorneys and title agents seeking a full service institution.

The following are some specific benefits associated with participation in Ohio's IOLTA/IOTA Program:

The Program Is Highly Publicized.

Financial institution participation in the Program is highly publicized across the state and nationally by the Ohio Legal Assistance Foundation through media, including the periodicals and journals of the American Bar Association, the Ohio State Bar Association, and local bar associations. Financial institutions with the most favorable IOLTA/IOTA account policies (e.g., waived service charges, competitive interest rates, etc.) are highlighted whenever possible and may, as a result, receive significant referral business.

Helping the Poor in Your Community Is Good Public Relations.

Your participation may also be described in your banking information brochures, newsletters, annual reports, and other publications to let shareholders, existing and potential customers, and investors know that your institution is a partner in developing resources to ensure access to justice for those in need statewide and in your own community.

IOLTA and IOTA Accounts Can Help Your Financial Institution with Its Obligations Under the Community Reinvestment Act.

Many institutions have cited their IOLTA and IOTA participation within their Community Reinvestment Act statements to state and federal regulatory agencies. The Ohio Legal Assistance Foundation can provide grant information in your geographic service area to facilitate this process.

IOLTA and IOTA Accounts Are Good Business.

Promoting IOLTA and IOTA is good business for your institution. Since an IOLTA or IOTA account is a pooled client funds' account, average balances can often run significantly higher than similar deposit accounts, and as a class of accounts, offer greater potential for low-cost deposits. Further, attorneys are an excellent source for cross-selling banking services, such as consumer and business loans, other deposit accounts, mortgage services, and escrow services.

For these reasons, and the charitable purpose for which IOLTA and IOTA accounts were developed, your participation in this Program can be a very positive undertaking for your institution.

For additional information on these benefits and assistance in marketing these benefits, please contact the Ohio Legal Assistance Foundation.

Opening An Account

Upon the request of an attorney or title agent to establish an IOLTA/IOTA account, the financial institution should open a NOW, money market, sweep or other similar account. An investment sweep account may also be opened provided that it is fully collateralized by United States Treasury obligations or repurchase agreements fully collateralized by such obligations. IOLTA/IOTA accounts must include:

- * **Account Title.** The name of the attorney, title agent, or firm name and address, along with “IOLTA” or “IOTA,” should appear in the title of the account. The name of the account may contain additional identifying information to distinguish it from other accounts. For example, “John Doe, IOLTA, #123456” or “ABC Title Agency, IOTA.”
- * **Federal Tax Identification Number.** The federal tax identification number assigned to all Ohio IOTA and IOLTA accounts is 31-1126612. Financial institutions should not assign the tax I.D. number of the lawyer or title agent, law firm, title company, or their client depositors. 1099-INT reporting is not required. If IRS 1099 reports cannot be suppressed by the financial institution’s data processing system, then the Ohio Legal Assistance Foundation should be listed as the owner of the tax identification number.

- * **Account Type.** If money market, business investment, or sweep accounts are not available, or the deposits are insufficient to meet the quantity requirements of money market, business investment, or sweep accounts at the depository institution, then IOLTA and IOTA accounts should be established as an interest-bearing checking account. While not mandatory, many institutions have found that by assigning a specific account type to all IOTA/IOLTA accounts, they can avoid potential problems with the unique requirements of these accounts.

Setting Up An IOLTA/IOTA Account Is As Easy As 1, 2, 3 . . .

1. **Establish the new account as a NOW, money market, or a sweep account.**
2. **Assign the account with Ohio’s IOLTA/IOTA Tax Identification Number.**
3. **Properly identify the account as an IOLTA or IOTA account.**

Other steps may be required to establish an account at your financial institution, but these are the minimum requirements for an IOLTA/IOTA account.

Account Notification and the IOLTA/IOTA Registration Form

Once an account is opened, it is the responsibility of the attorney or title agent to notify OLAF that the account has been established at a participating financial institution. **Completion of the registration form is not a prerequisite to establishing an IOLTA/IOTA account. While it is not the responsibility of the financial institution to complete and submit this form, it may do so as a courtesy to its customers.**

Characteristics of IOLTA/IOTA Accounts

What type of funds may be deposited in an IOLTA/IOTA account?

Examples of the types of funds to be placed into these trust accounts include:

- Retainers received from clients, until fees are actually earned by the lawyer;
- Funds that belong in part to the client and in part to the lawyer;
- Funds of the client that are being held for disbursement at a later time;
- Personal injury awards, court costs, and litigation settlement moneys;
- Deposits required to close property transactions.

Unless an escrow or client's trust account is established for the sole benefit of that client, all pooled client trust accounts must be either an IOLTA or IOTA account.

What about attorney funds?

In contrast to client funds or escrow accounts, lawyer and title agent operating accounts are used to hold earned fees and to pay operating expenses of their practice or business. Client or escrow funds must remain as separate accounts and must not be commingled with operating funds.

Additionally, operating funds should not be placed in an IOLTA/IOTA account.

However, funds sufficient to pay or enable a waiver of financial institution service charges on the account may be deposited in the account and other funds belonging to the attorney, firm, or association may be deposited for this purpose.

When should an account be established as an IOLTA or IOTA account?

An *IOLTA* account may, and in many cases must, be established and maintained for the purpose of depositing client funds held by the attorney, law firm, or legal association. When a title insurance agent or title insurance company establishes and maintains an interest-bearing trust account for the deposit of all non-directed escrow funds that account must be identified as an *IOTA* account. Not only are these distinctions statutorily mandated, but adherence to these distinctions ensures compliance with professional ethics rules and facilitates administration by OLAF.

Are IOLTA/IOTA deposits FDIC insured?

FDIC regulations make it clear that funds deposited into an IOTA or IOLTA account belong to the individual clients represented and will be insured up to the \$250,000 aggregate per client, regardless of the total dollars in the account and regardless of the law firm's or title company's other deposits in that institution, as long as certain steps are followed. (*See* 12 C.F.R. Secs. 330.1(b)(1) et al., 564.2(b)(1) et al. available on the OLAF Web site.)

Are there other characteristics of IOLTA/IOTA accounts?

All account funds must be subject to withdrawal or transfer upon request and without delay, or as soon as permitted by law. The rate of interest payable on the account shall not be less than the rate paid by the financial institution to its regular depositors. Account service charges must be reasonable and may be waived. See page 5 for additional details on interest rates and service charges.

Service Charges and Interest Rates

May service charges be waived on IOLTA/IOTA accounts?

A financial institution may waive service charges on IOTA/IOLTA accounts. Financial institutions that waive service charges may consider including the amount waived as a charitable act reported in its Community Reinvestment Act file. If such charges are waived, then the financial institution may impose reasonable fees. For each lawyer, title agent, or firm account, a financial institution may deduct reasonable service charges and fees from the interest earned on that account. For example, an institution may deduct a reasonable monthly maintenance charge or a check and/or deposit charge from the interest. Financial institutions may not aggregate interest earned and service charges on all IOTA/IOLTA accounts and remit the balance, thereby causing positive net accounts to subsidize negative accounts.

Eligible Fees and Charges on IOLTA/IOTA Accounts:

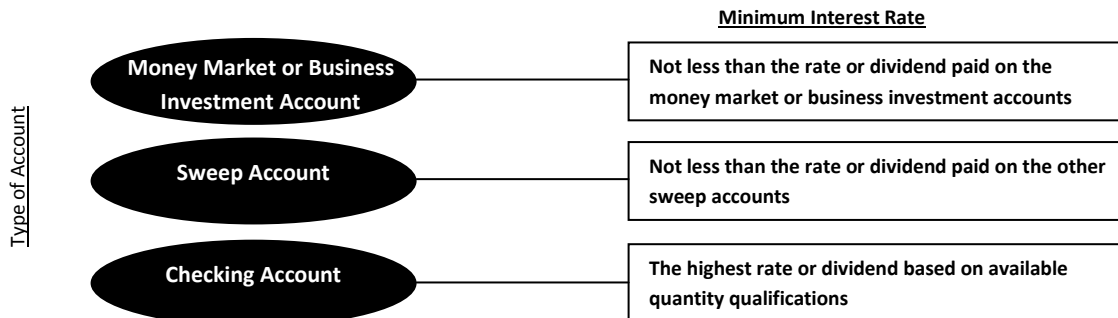
Monthly Maintenance Charges
 Check Charges
 Deposit Charges
 The above fees and charges must be reasonable.

Ineligible Fees and Charges on IOLTA/IOTA Accounts:

Check Printing Charges
 Insufficient Fund Charges
 Stop Payments
 Return Deposit Fees
 Teller and ATM Fees
 Electronic Transfer Fees

What rates of interest must be paid on an IOLTA/IOTA account?

Ohio law requires that the rate of interest payable on an IOLTA/IOTA account shall not be less than the rate paid by the financial institution to its regular depositors. The rate may be higher if there is no impairment of the right to the immediate withdrawal or transfer of the principal. If a tiered rate for larger balances is offered on similar accounts, it should also be offered for IOTA/IOLTA accounts. Similarly, interest should be calculated and disclosed in accordance with an institution's standard practice and as required by Federal Reserve Board Regulation DD (Truth-In-Savings Act).



Interest Remitting and Reporting

Participating financial institutions must remit to the Treasurer of the state of Ohio net interest earned on IOLTA and IOTA accounts maintained at its institution. To ensure proper remittance of net interest earned, a financial institution must adhere to the following procedures. The remittance process is a two-step process - remitting account proceeds and remitting account information. Both steps should be performed at the same time. This process is detailed on pages 6 through 11 and summarized on page 12.

The financial institution must remit all net interest earned on each IOLTA/IOTA account maintained at the institution on either a monthly or quarterly basis to the State Treasurer by the 15th of the following month. The reporting period must be for the period beginning on the first day of the month and ending on the last day of the month. Since most institutions pay interest on a monthly basis, those institutions that choose to remit on a quarterly basis should insure that interest paid during the first two months of the quarter remains in the IOTA or IOLTA account and continues to earn interest, or is credited to another interest bearing holding account that pays a rate of interest equal to or greater than the original IOTA or IOLTA account.

Remittance of Account Proceeds

The following options are currently available to a participating financial institution that remits account proceeds to the State Treasurer net interest earned on IOLTA and IOTA accounts it maintains:

Electronic Funds Transfer (EFT)

If your financial institution participates in the Automated Clearing House (ACH) Network, then it is required to use the Electronic Funds Transfer (EFT) method to make payments of interest to the Treasurer of State. The Form Agreement for IOTA/IOLTA Payments Made by Electronic Funds Transfer (see Appendix) must be completed and mailed to the State Treasurer's Office to initiate this payment method. The State Treasurer's Office will provide instructions on establishing EFT once the Form Agreement for IOTA/IOLTA Payments Made by Electronic Funds Transfer has been processed. Once EFT has been established, participating institutions will be responsible for submitting corresponding remittance forms as detailed on the following pages and for providing to the Treasurer's Office the EFT Notice Form.

Checks

If your financial institution does not participate in the Automated Clearing House (ACH) Network, and thus the EFT payment method is not possible for your institution, then please send a check for the accumulated interest in all accounts, along with the remittance reports to Treasurer of State, P.O. Box 665, Columbus, Ohio 43216-0665. Payment is due by the 15th of the month following the reporting period.

Any questions regarding remitting account proceeds may be directed to the Office of the Treasurer, IOLTA Revenue Coordinator, 9th Floor, 30 East Broad Street, Columbus, Ohio 43266-0421, (614) 466-3510 or you may contact OLAF at (614) 752-8919 or (800) 877-9772.

Interest Remitting and Reporting

Electronic Templates of Remittance Forms

Electronic Templates of Remittance Forms

To improve the accuracy and speed of data entry, OLAF has developed electronic templates for use in the remittance of account information. A financial institution must use these templates when submitting account information. Microsoft Access (database format) and Excel (spreadsheet format) templates are provided for your use, as well as a plain text format (for Comma Separated Values data entry) for organizations that are fully automated or do not have database or spreadsheet software.

Obtaining OLAF's Electronic Templates

The financial institution should download the OLAF electronic templates located at <http://www.olaf.org/iolta-and-iota/electronic-remittances/>. The templates are provided in a password-protected zip file. The OLAF Web site provides several links to Web sites that offer zip file software at no cost. Contact OLAF for assistance in downloading and accessing this zip software. The password used to unlock the zip file is the IOTA/IOLTA Tax ID without any hyphens or spaces. Once the templates are downloaded, a master copy should be created and saved by the institution on a local computer or server. The electronic templates may also be obtained by contacting OLAF and requesting that the file be e-mailed or mailed on a diskette.

FILE NAMING

After downloading and creating a master copy of the electronic templates, the institution must use the following naming attributes when submitting files to the Treasurer of State and OLAF:

Bank Name (Bank Location) - MMY.file extension

Example: Columbus Bank (Columbus) - 0602.txt (CSV file for Columbus Bank's June 2002 IOLTA/IOTA Detail Remittance Form)

Example: Columbus Bank (Columbus) - 0602.mbd (database file for Columbus Bank's June 2002 Summary and Detail Report Forms)

Example: Columbus Bank (Columbus) - 0602.xls (spreadsheet file for Columbus Bank's June 2002 Summary and Detail Report Forms)

Interest Remitting and Reporting

Electronic Templates Formats

The OLAF remittance templates have been developed using Microsoft Access and Excel files, and a plain text word-processing file. Microsoft Access and Excel templates are the preferred file format, but a plain text format may be used.

Microsoft Access Format

The Microsoft Access template provides a straightforward database format for the entry of data. One file is provided - Remittal Template.mdb, which consists of two tables, Remittal Summary and Remittal Detail, and one report, Summary Info Printout. Data should be entered in the tables. The Remittal Summary table has a header row that labels the bank data fields and one row for corresponding bank reporting period summary data. The Remittal Detail table provides rows (one row per account) for account detail information. The Summary Info Printout report provides a concise, printable summary of the bank's accounts.

Microsoft Excel Format

The Microsoft Excel template provides a simple spreadsheet format for data entry. One template file is provided - Remittal Template.xls, which consists of two worksheets, Remittal Summary and Remittal Detail. You may toggle between each worksheet by using the tabs at the bottom of the page. The Remittal Summary worksheet contains two columns. One column contains text labels and the second column contains space to enter bank information and reporting period summary data that corresponds to the text label in the same row. The Remittal Detail worksheet has a header row that identifies the data that should be in each column. The rows below the header row are for entering account detail information (one account per row).

Plain Text Format

This format is intended primarily for banks that either choose to fully automate the remittal process or choose not to purchase and install either spreadsheet or database software. The text file may be accessed using any word-processing software, such as Notepad and Wordpad. Institutions using this file format must enter data using a delimited Comma Separated Value (CSV) format.

Files Provided:

Remittal Summary.txt

This file provides bank and reporting period summary data. It should have exactly two lines. The first line, which is provided on the template, provides labels for bank and summary data. The bank and reporting period summary data text is entered by the bank on the second line. The information on the second line may be enclosed in quotes. Each data item on the second line must be separated by commas.

Remittal Detail.txt

This file provides account detail information. It should have at least two lines. The first line, which is provided on the template, contains field labels for the account detail data which is then provided on the second and following lines. Text may be enclosed in quotes and each data item must be separated by commas.

Interest Remitting and Reporting

Completing Remittance Reports

The Summary and Detail report files should not be modified from the original format provided by OLAF (e.g., no new columns or fields should be created by the financial institution). When completing the Summary form, use only the space provided. When completing the Detail form, account numbers should contain only numerical digits (no dashes), the account name should be complete and consistent with prior submissions, and the remaining account information should be in proper numerical format (e.g., interest rates in percentage, 15.45%; account balances in currency format, \$156,313.24 or 156313.24). The financial institutions may not group account information in the Detail form. For example, if an account holder has more than one IOLTA account, the financial institution must list each account on a separate row and include all information required for all accounts in each row.

Data Structure

All submissions must include the following data for the respective reporting period.

Remittal Summary Data

Bank Name
Address1
Address2
City
State
Zip
ABA Number
Contact Person Name
Title
Department
Telephone
Fax
Report Period-From
Report Period-To
Date Prepared
Remittance This Period
Plus/Minus Adjustments
Net Amount Remitted
Adjustments Explanation
Check Number (**Check Remittance Only**)
Check Date (**Check Remittance Only**)
Trace Number (**EFT Remittance Only**)
Settlement Date (**EFT Remittance Only**)

Remittal Detail Data

Account Number
Account Name
Average Monthly Balance
Interest Rate
Interest Earned
Service Charges
Interest Remitted

WWW.OLAF.ORG

Access the OLAF Web site to obtain additional information and new developments on the IOLTA/IOTA Program. Staff will also use the OLAF Web site to post any updates or corrections to this Handbook.

Interest Remitting and Reporting

Remittance of Account Information

The participating institution must remit account information electronically in a text, spreadsheet, or database format consistent with the instructions provided in this handbook. Electronic remittance of account information requires that the data be entered into one of the above formats, saved, archived, and then forwarded to the state and OLAF.

File Archive Process

To speed transmission and provide an additional level of protection against computer viruses, it is required that all attachments be “zipped” into an archive. The archived file will have one spreadsheet file with a separate Summary and Detail worksheet; one database file with a separate Summary and Detail table; or two word-processing files, one that contains Summary report data and one that contains Detail report data. Instructions and links to free software for the use in the archiving process may be found on the OLAF Web site.

File Archive Naming

The archive file name should follow the naming attributes provided on page 8 for the individual file(s). The zipped file should be named as follows: the institution’s name, followed by location of the institution in parenthesis, followed by the year and month in the format MMY. For example, Cleveland Bank, located in the city of Cleveland, would submit its September 2002 report with the following zipped file name: Cleveland Bank (Cleveland) 0902.zip. The file archiving process will automatically assign the “.zip” file extension, so the institution need only provide the above attributes.

E-mail process

To complete the submission process, the archive file must be included as an attachment to an e-mail. When remitting interest by ACH or check, e-mail the completed and archived file for the corresponding period to both **iolta@tos.ohio.gov** and **remittals@olaf.org**. If the financial institution cannot generate electronic reports, then typed forms should be forwarded to the Treasurer’s Office with the remittance check and to OLAF at the time the respective interest is remitted to the Treasurer’s Office.

Account Holder Notification of Remittance

Attorneys and title agents should be notified by the financial institution of the payment of interest to the Treasurer of State through either the normal statement mailings or a separate notification.

Interest Remitting and Reporting

Remittance Process Checklist

ONE TIME ONLY - When remitting account proceeds by ACH method, complete Form Agreement for IOTA/IOLTA Payments Made by Electronic Funds Transfer and submit to the State Treasurer's Office.

ONE TIME ONLY - Download the templates and follow the instructions provided on the Web site in order to access and save the files for future use.

Prior to remitting monthly interest and reports:

Calculate net interest earned during the prior month on all IOLTA and IOTA accounts maintained at the institution.

Prepare an IOTA/IOLTA Summary Remittance Form for Financial Institutions for the current reporting period.

Prepare an IOLTA/IOTA Remittance Report for the current reporting period.

Save files using proper file naming assignments for electronic files.

Archive remittance file(s) using a zip file software application.

When remitting interest electronically, by the 15th of each month:

Remit interest for the prior month to the Treasurer of State by Electronic Funds Transfer (EFT) using the ACH Network.

Electronically submit an IOTA/IOLTA Summary Remittance Form for Financial Institutions and IOLTA/IOTA Remittance Report to the Treasurer of State and OLAF.

When remitting interest by check (for institutions that do not participate in the ACH Network), by the 15th of each month:

Remit interest for the prior month to the Treasurer of State by check.

Electronically submit an IOTA/IOLTA Summary Remittance Form for Financial Institutions and IOLTA/IOTA Remittance Report to the Treasurer of State and OLAF.

OLAF RULES

When the Ohio Legislature created the Ohio Legal Assistance Foundation in 1993, it also granted OLAF rule-making authority. A “rule” is a formal, written statement of policy that, once adopted, has the force of law. Following publication of proposed rules, a public hearing, and an extensive comment period, the OLAF board adopted a final set of Rules for the organization at its meeting on September 6, 2001.

The Foundation is charged with administering sections 120.51 to 120.55 of the Ohio Revised Code and is granted rule-making authority in section 120.52 of the Revised Code.

The effect of the new Rules is the modification and adoption of past policies and practices of the Foundation and Public Defender’s Office (which administered the legal aid fund prior to the creation of OLAF).

The Rules are divided into the following sections: OLAF operational rules; Administration of the IOLTA/IOTA program relating to financial institutions; Administration of the IOLTA/IOTA program relating to depositors; and, Ohio’s legal aid societies and the legal aid fund.

OLAF Operational Rules

The operational provisions of the Rules formalize the mission and structure of the Foundation. The mission of the Foundation remains the same under the new Rules: OLAF “is committed to equal access to justice and will work to assure that resources, programs, and services exist statewide to serve the unmet civil legal needs of Ohio’s poor.” Additional sections formalize the private, not-for-profit status of the Foundation, detail the composition of the

governing board of trustees, and summarize the authority and process to adopt, amend, or rescind Rules governing the administration of the legal aid fund, which includes revenues from IOLTA, IOTA, filing fee surcharge programs, and private donations. The operational provisions conclude with a detailed set of definitions specific to the administration of the legal aid fund.

Financial Institutions and IOLTA/IOTA

The Foundation has the statutory responsibility of administering Ohio’s Interest on Lawyers’ Trust Accounts/Interest on Trust Accounts (IOLTA/IOTA) program (see Ohio Revised Code sections 3953.231 and 4705.09 - 4705.10). The new Rules provide that participation by banks in the IOLTA/IOTA program is voluntary, but if a bank does participate in the program it must adhere to specific requirements. These requirements prescribe how the bank maintains and reports on the account, the type of banking product that the IOLTA/IOTA account must be established as, and OLAF’s monitoring responsibilities. Additionally, this section of the Rules requires that the rates of interest payable on IOLTA/IOTA accounts shall not be less than the rates paid by the depository institution to other depositors. Further, the Rules require that banks treat the accounts in the most favorable way consistent with the array of similar products offered at that institution.

Continued on page 14

The effective date for the Rules is April 1, 2002. Visit www.olaf.org for a full copy of the Rules or call (614)752-8919 or (800) 877-9772.

OLAF RULES

Attorneys and IOLTA/IOTA

Every attorney, law firm or legal professional association, or other ancillary business related to the practice of law depositing client funds in a common escrow or trust account must establish and maintain an IOLTA or IOTA account in an eligible, participating bank. The Rules prescribe which client funds must be deposited in an IOLTA or IOTA account; when and how the attorney must establish the account and how to notify OLAF once the account has been established; and that the depositing attorney cooperate with and assist OLAF to ensure that the deposits are maintained in an account providing the greatest return. The Rules also summarize the consequences for an attorney who fails to comply with these provisions.

Ohio's Legal Aid Societies

Ohio's community-based legal aid societies are the direct legal service providers in the state and the primary beneficiaries of the legal aid fund. The new Rules outline the process and criteria for legal aid societies to receive financial assistance from OLAF. Consistent with past practice, the Rules mandate an application process for funding and annual reporting by legal aid fund grantees of its prior year's activities. The Rules also permit the legal aid society to establish income criteria to determine an applicant's eligibility for legal assistance.

Rule Highlights for Participating Banks

- * Participating banks must provide products that are reasonable, equitable, and in compliance with public policy.
- * Only reasonable service charges are permitted.
- * Specific interest remittance and account information reporting requirements.
- * Financial institutions that utilize computerized systems to generate required monthly IOLTA reports must submit reports electronically.

A special thank you to the following individuals for their service and hard work on the committee responsible for the development and implementation of these Rules:

Judge James Sherck, CHAIR, Sixth Circuit Court of Appeals
Thomas Chema, Esq., Arter & Hadden
Richard Dove, Esq., Director of Legal and Legislative Services, Ohio Supreme Court
Raymond Headon, Esq., Thomspson Hine LLP
H. Ritchey Hollenbaugh, Esq., Carlile Patchen & Murphy LLP
C. Richard Hubbard, Liberty National Bank
Jim Johnson, Esq., Chief Legal Officer, Procter & Gamble Company
Fredrick Oremus, Esq., Eslocker, Hodson & Oremus
Jim Petro, Esq., Auditor of State
Anne Valentine, Esq., Leeseberg & Valentine
Thomas Weeks, Esq., Director, Ohio State Legal Services Association

OHIO LEGAL ASSISTANCE FOUNDATION

The Ohio Legal Assistance Foundation is a statutorily created non-profit foundation charged with improving access to justice for Ohio's poor.

The Ohio Legal Assistance Foundation (OLAF) was created by the Ohio Legislature as a response to the serious deficiencies in meeting the civil legal needs of all Ohioans. In partnership with the state and local bars, elected officials, and local legal service providers, the Foundation coordinates resource development, provides efficient distribution of legal aid funds, and promotes innovative approaches to ensure justice for all.

The Foundation administers Ohio's Interest on Lawyers' Trust Accounts (IOLTA) and Interest on Trust Accounts (IOTA) programs and coordinates other statewide resource development initiatives. Ohio's local legal aid societies use these resources for the charitable public purpose of providing civil legal services to low-income individuals and households. Funds from the state legal aid fund enable legal aid societies to provide access to the justice system for the poor, whose legal problems often have a profound effect upon the very quality of their lives. Local legal aid societies assist thousands of individuals and families each year — victims of domestic violence, families with child custody matters, senior citizens who have been mistakenly denied medical benefits or those who have been wrongfully forced into homelessness.

In addition to administering state funds for legal aid societies, the Ohio Legal Assistance Foundation also supports innovative projects to ensure the effective delivery of legal services to the poor. The Foundation is currently working with local bar leaders to identify efficient programs for meeting the legal needs of the poor on a community basis. Expanding the opportunities for lawyers to provide pro bono service to the poor and exploring new sources of revenues are just some of the methods the Foundation is using to try to close the wide gap in the need for civil legal services.

The Foundation believes that a nation dedicated to the proposition of equal justice must commit itself to closing the gap in unmet legal needs. It is a giant undertaking evidenced by the 1991 report on the civil legal needs of Ohioans which indicated that 83 percent of the legal problems of the poor receive no attention. Justice for all is indeed a fundamental issue for all of society, not merely the legal profession. The Foundation wants to involve a broad-based group in efforts to resolve the problem. The banking community is an important partner in this endeavor.

Ohio Legal Assistance Foundation

P.O. Box 15266
Columbus, Ohio 43215-0266
(614) 752-8919 (voice)
(800) 877-9772 (toll-free)
(614) 728-3749 (fax)
www.olaf.org

Ohio Legal Assistance Foundation

Operations Handbook for Financial Institutions

Appendix Table of Contents

IOLTA/IOTA Ohio Revised Code Sections

§ 3953.231 Interest-Bearing Trust Accounts for Deposit of Escrow Funds	SP-2
§ 4705.09 Attorneys to Establish Interest-Bearing Trust Accounts; Certain Client Funds; Transmittal of Interest to Legal Aid Fund; Rule of Professional Conduct	SP-3
§ 4705.10 Conditions for Handling Interest-Bearing Trust Accounts.....	SP-4

IOLTA/IOTA Forms

Treasurer of State Authorization Agreement for Electronic Funds Transfer Form	F-2
IOTA/IOLTA Summary Remittance Form for Financial Institutions.....	F-3
IOLTA/IOTA Detail Remittance Report Form	F-4

Ohio Legal Assistance Foundation

Operations Handbook for Financial Institutions

IOLTA/IOTA Ohio Revised Code Sections

§ 3953.231 Interest-Bearing Trust Accounts for Deposit of Escrow Funds	SP-2
§ 4705.09 Attorneys to Establish Interest-Bearing Trust Accounts; Certain Client Funds; Transmittal of Interest to Legal Aid Fund; Rule of Professional Conduct	SP-3
§ 4705.10 Conditions for Handling Interest-Bearing Trust Accounts.....	SP-4

3953.231 INTEREST-BEARING TRUST ACCOUNTS FOR DEPOSIT OF ESCROW FUNDS

(A)(1) Each title insurance agent or title insurance company shall establish and maintain an interest-bearing trust account for the deposit of all non-directed escrow funds that meet the requirements of sections 1349.20 to 1349.22 of the Revised Code.

(2) The account shall be established and maintained in any federally insured bank, savings and loan association, credit union, or savings bank that is authorized to transact business in this state.

(3) The account shall be in the name of the title insurance agent or company, and shall be identified as an "interest on trust account" or "IOTA." The name of the account may contain additional identifying information to distinguish it from other accounts.

(4) The title insurance agent or company establishing the account shall submit, in writing, to the superintendent of insurance the name, account number, and location of the bank, savings and loan association, credit union, or savings bank in which the trust account is maintained.

(B) Each title insurance agent or company shall deposit all non-directed escrow funds that are nominal in amount or are to be held for a short period of time into the account established under division (A) of this section no later than the next business day after receipt.

(C) Each account established under division (A) of this section shall comply with all of the following:

(1) All funds in the account shall be subject to withdrawal or transfer upon request and without delay, or as soon as permitted by law;

(2) The rate of interest payable on the account shall not be less than the rate paid by the bank, savings and loan, credit union, or savings bank to its regular depositors. The rate may be higher if there is no impairment of the right to the immediate withdrawal or transfer of the principal;

(3) All interest earned on the account, net of service charges and other related charges, shall be transmitted to the treasurer of state for deposit in the legal aid fund established under section 120.52 of the Revised Code. No part of the interest earned shall be paid to the title insurance agent or company.

(D) The title insurance agent or company establishing an account under division (A) of this section shall direct the bank, savings and loan association, credit union, or savings bank to do both of the following:

(1) Remit interest or dividends on the average monthly balance in the account, or as otherwise computed in accordance with the standard accounting practice of the bank, savings and loan association, credit union, or savings bank, less reasonable service charges and other related charges, to the treasurer of state at least quarterly for

deposit in the legal aid fund established under section 120.52 of the Revised Code;

(2) At the time of each remittance, transmit to the treasurer of state, and if requested, to the Ohio legal assistance foundation, and the title insurance agent or company, a statement showing the name of the title insurance agent or company for whom the remittance is sent, the rate of interest applied, the accounting period, the net amount remitted to the treasurer of state for each account, the total remitted, the average account balance for each month of the period for which the report is made, and the amount deducted for service charges and other related charges.

(E) The statements and reports submitted by the bank, savings and loan association, credit union, or savings bank under this section, are not public records subject to section 149.43 of the Revised Code and shall be used only to administer the legal aid fund.

(F) No funds belonging to a title insurance agent or company shall be deposited into an account established under division (A) of this section except funds necessary to pay service charges and other related charges of the bank, savings and loan association, credit union, or savings bank that are in excess of earnings on the account.

(G) No liability arising out of any negligent act or omission of any title insurance agent or company with respect to any account established under division (A) of this section shall be imputed to the bank, savings and loan association, credit union, or savings bank.

(H) No liability or responsibility arising out of any negligent act or omission of any title insurance agent with respect to any account established under division (A) of this section shall be imputed to a title insurance company.

(I) The superintendent may adopt, in accordance with Chapter 119. of the Revised Code, rules that pertain to the use of accounts established under division (A) of this section and to the enforcement of this section.

(1995 H 117, eff. 1-1-96)

**4705.09 ATTORNEYS TO ESTABLISH
INTEREST-BEARING TRUST
ACCOUNTS; CERTAIN CLIENT FUNDS;
TRANSMITTAL OF INTEREST TO
LEGAL AID FUND; RULES OF
PROFESSIONAL CONDUCT**

(A)(1) Any person admitted to the practice of law in this state by order of the supreme court in accordance with its prescribed and published rules, or any law firm or legal professional association, may establish and maintain an interest-bearing trust account, for purposes of depositing client funds held by the attorney, firm, or association that are nominal in amount or are to be held by the attorney, firm, or association for a short period of time, with any bank or savings and loan association that is authorized to do business in this state and is insured by the federal deposit insurance corporation or the successor to that corporation, or any credit union insured by the national credit union administration operating under the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751. Each account established under this division shall be in the name of the attorney, firm, or association that established and is maintaining it and shall be identified as an IOLTA or an interest on lawyer's trust account. The name of the account may contain additional identifying features to distinguish it from other trust accounts established and maintained by the attorney, firm, or association.

(2) Each attorney who receives funds belonging to a client shall do one of the following:

(a) Establish and maintain one or more interest-bearing trust accounts in accordance with division (A)(1) of this section or maintain one or more interest-bearing trust accounts previously established in accordance with that division, and deposit all client funds held that are nominal in amount or are to be held by the attorney for a short period of time in the account or accounts;

(b) If the attorney is affiliated with a law firm or legal professional association, comply with division (A)(2)(a) of this section or deposit all client funds held that are nominal in amount or are to be held by the attorney for a short period of time in one or more interest-bearing trust accounts established and maintained by the firm or association in accordance with division (A)(1) of this section.

(3) No funds belonging to any attorney, firm, or legal professional association shall be deposited in any interest-bearing IOTA [sic] account established under division (A)(1) or (2) of this section, except that funds sufficient to pay or enable a waiver of depository institution service charges on the account shall be deposited in the account and other funds belonging to the attorney, firm, or association may be deposited as authorized by the Code of Professional Responsibility adopted by the supreme court. The determinations of whether funds held are nominal or more than nominal in amount and of whether funds are to be held for a short period or longer than a short period of time rests in the sound judgment of the particular attorney.

No imputation of professional misconduct shall arise from the attorney's exercise of judgment in these matters.

(B) All interest earned on funds deposited in an interest-bearing trust account established under division (A)(1) or (2) of this section shall be transmitted to the treasurer of state for deposit in the legal aid fund established under section 120.52 of the Revised Code. No part of the interest earned on funds deposited in an interest-bearing trust account established under division (A)(1) or (2) of this section shall be paid to, or inure to the benefit of, the attorney, the attorney's law firm or legal professional association, the client or other person who owns or has a beneficial ownership of the funds deposited, or any other person other than in accordance with this section, section 4705.10, and sections 120.51 to 120.55 of the Revised Code.

(C) No liability arising out of any act or omission by any attorney, law firm, or legal professional association with respect to any interest-bearing trust account established under division (A)(1) or (2) of this section shall be imputed to the depository institution.

(D) The supreme court may adopt and enforce rules of professional conduct that pertain to the use, by attorneys, law firms, or legal professional associations, of interest-bearing trust accounts established under division (A)(1) or (2) of this section, and that pertain to the enforcement of division (A)(2) of this section. Any rules adopted by the supreme court under this authority shall conform to the provisions of this section, section 4705.10, and sections 120.51 to 120.55 of the Revised Code.

(1995 H 117, eff. 9-29-95; 1985 H 201, eff. 7-1-85; 1984 S 219)

4705.10 CONDITIONS FOR HANDLING INTEREST-BEARING TRUST ACCOUNTS

(A) An interest-bearing trust account established under authority of section 4705.09 of the Revised Code shall comply with all of the following:

(1) All funds in the account shall be subject to withdrawal upon request and without delay, or as soon as is permitted by federal law;

(2) The rate of interest payable on the account shall not be less than the rate paid by the depository institution to regular, nonattorney depositors. Higher rates offered by the institution to customers whose deposits exceed certain time or quantity qualifications, such as those offered in the form of certificates of deposit, may be obtained by a person or law firm establishing the account if there is no impairment of the right to withdraw or transfer principal immediately.

(3) The depository institution shall be directed, by the person or law firm establishing the account, to do all of the following:

(a) Remit interest or dividends, whichever is applicable, on the average monthly balance in the account or as otherwise computed in accordance with the institution's standard accounting practice, less reasonable service charges, to the treasurer of state at least quarterly for deposit in the legal aid fund established under section 120.52 of the Revised Code;

(b) Transmit to the treasurer of state, upon its request, to the Ohio Legal Assistance Foundation, and the depositing attorney, law firm, or legal professional association upon the attorney's, firm's, or association's request, at the time of each remittance required by division (A)(3)(a) of this section, a statement showing the name of the attorney for whom or the law firm or legal professional association for which the remittance is sent, the rate of interest applied, the accounting period, the net amount remitted to the treasurer of state for each account, the total remitted, the average account balance for each month of the period for which the report is made, and the amount deducted for service charges.

(B) The statements and reports of individual depositor information made under division (A)(3) of this section are confidential and shall be used only for purposes of administering the legal aid fund.

(1995 H 117, eff. 9-29-95; 1985 H 201, eff. 7-1-85; 1984 S 219)

Ohio Legal Assistance Foundation

Operations Handbook for Financial Institutions

IOLTA/IOTA Forms

Treasurer of State Authorization Agreement for Electronic Funds Transfer Form	F-2
IOTA/IOLTA Summary Remittance Form for Financial Institutions.....	F-3
IOLTA/IOTA Detail Remittance Report Form	F-4

**JOSH MANDEL
TREASURER OF STATE
Authorization Agreement
Electronic Funds Transfer**



PLEASE COMPLETE ONE AGREEMENT PER FEDERAL ID NUMBER

Part I <u>TAXPAYER INFORMATION</u> (REQUIRED)	
Please type or print information	
<u>Taxpayer Name</u>	Contact Person
Mailing Address (Street Number, Box Number)	Telephone Number
City, State, Zip Code	Fax Number
E-mail Address	
Part II <u>TAX TYPE</u> <input type="checkbox"/> NEW EFT ACCOUNT <input type="checkbox"/> MODIFY EFT ACCOUNT Financial Institution Federal ID Number # _____ <input type="checkbox"/> IOLTA/IOTA	
Use Part III for bank account changes	
Part III <u>ACH DEBIT OPTION</u> (Financial Institution phones in payment)	
<u>Financial Institution Name</u>	Type of Account <input type="checkbox"/> Checking <input type="checkbox"/> Savings
Transit & Routing Number	Bank Account Number
I hereby authorize Ohio Treasurer Kevin L. Boyce's Office to process ACH Debit entries from the bank account specified above. This debit will pertain only to Electronic Funds Transfer Payments for the above named taxpayer.	
Authorized Signature	Date
Part IV <u>ACH CREDIT OPTION</u> (Financial Institution initiates payment)	
I hereby request Ohio Treasurer Kevin L. Boyce's Office to grant authority for the above named Financial Institution to initiate ACH Credit Transactions to Ohio Treasurer Kevin L. Boyce's Office bank account. It is understood that these transactions must be in the NACHA CCD+ format using the TXP Payment Convention and may only be initiated for the tax type specified above.	
Authorized Signature	Date

MAIL: Ohio Treasurer Josh Mandel
Attn: Electronic Funds Department
30 East Broad Street, 9th Floor
Columbus, Ohio 43215-3461

www.eft.tos.ohio.gov

Questions: Ohio Treasurer Josh Mandel
EFT Help Line
1-877-EFT-OHIO
FAX: (614) 752-5377

TREASURER OF STATE



IOTA/IOLTA SUMMARY REMITTANCE FORM FOR FINANCIAL INSTITUTIONS
ORC SECTIONS 3953.231, 4705.1

Mail this statement along with individual account information and check (if applicable) to:
Treasurer of State
P.O. Box 665
Columbus, OH 43216-0665

I. REPORT PERIOD:
_____ TO _____
mm/dd/yyyy mm/dd/yyyy

II. FINANCIAL INSTITUTION:
Name _____
Address _____
City _____
State _____ Zip _____
FEIN/ABA# _____
Signature _____

Contact _____
Title _____
E-mail _____
Phone _____
Fax _____
Date Prepared _____

III. REMITTANCE THIS PERIOD
Total Interest Earned _____
Plus/Minus Adjustments (explain) _____
Net Amount \$ _____

IV. PAYMENT METHOD (choose one)
Check ACH
Check # _____ Trace # _____
Date _____ Settlement Date _____

Operations Handbook for Financial Institutions

Interest on Lawyers' Trust Accounts & Interest on Trust Accounts (IOLTA & IOTA)

Ohio Legal Assistance Foundation

10 West Broad Street, Suite 950
Columbus, Ohio 43215
(614) 752-8919 (voice)
(800) 877-9772 (toll-free)
(614) 728-3749 (fax)
www.olaf.org

