

ABC'S OF OPENING SEPARATE TRUST ACCOUNT FOR SINGLE CLIENT

How does this differ from opening your regular IOLTA trust account? The banks in my area had some puzzlement over opening the first (collective) account. Now I need to receive funds for a client that will require my setting up a separate account - can anyone walk me through the basic steps so I will be prepared to deal with a possibly clueless banking staff? Bank is Chase, but it's only as good as the local guy sitting on the other side of the desk. Thanks!

Why do you need a separate Trust account for a specific client?

Either way, I've found that by using small, local banks, I get much better service than the big guys. When I walk into my bank, the teller (there's only one) says, "Hi, Mr. Shulman, how are you?" If Chase can't help you, take your business somewhere else.

David A. Shulman, Florida

We use both an IOLTA account (interest accrues and is swept back into NY States coffers) and a Client Fund Account with sub-accounts which are interest earning. The Master CFA has numerous sub-accounts - each with their own tax identification number reflecting the owner of the account.

Checks are directly deposited into the sub-accounts but there are no checks from the sub-accounts. In order to make a payment from a sub-account we electronically transfer funds from the sub-account to the Master CFA and then write a check against the Master CFA. We bank with Chase and the individual setting up the account is often unfamiliar with the system, so we've had to educate them countless times as the staff keeps changing. Good luck!

Joi Aberle, New York

To add to this question -- for those of you who use evergreen retainers -- does that take it out of IOLTA account? Say, you have a \$5k or \$10k or \$20k retainer from a client for a litigation matter, and it is an evergreen retainer that you are not supposed to touch unless/until the client fails to pay a bill in a given month, and in that case, the client is going to replenish the amount back up to the original amount.

Isn't that now not "nominal" and not "short term" because the money is going to be there for, possibly, a year or two or more while the litigation is

ongoing? Shouldn't you be putting it in a client-segregated account?

I don't usually use evergreen arrangements, but I have started to do so for a couple of my larger matters where my traditional rules of estimating retainer amounts did not seem to work. So now I am curious about whether I should be using segregated trust accounts for those clients.

Michelle J. Rozovics, Florida

Why do you need a separate account?

If it is because the size of the deposit and/or the length of time it will be held would justify the expense of setting up a separate account then it would NOT be an IOLTA account. You would just set up a regular interest earning trust account. The whole point being that the now significant interest accruing on the account will go to the client and NOT to the state IOLTA fund.

Nancy Duhon, Georgia

We use Citibank.

We have a "master" IOLTA account. We can also open "client" sub-accounts. Each sub-account is an entirely separate bank account, has its own number, can have checks if we want. But each client account falls under the umbrella of the master account (so, for example, they are included as part of a monthly statement for all escrow accounts.

Maybe using the term "sub-account" will clue them in. If not, time to get a new bank

Patrick W. Begos, Connecticut and New York

This varies by bank. Some have a system to open a subaccount of your trust, with interest going to client. You catch the funds in your regular trust, do an electronic transfer into the subaccount, and an electronic transfer back to the main trust when you are ready to disburse. Other banks don't do this, so there you open a separate new account for this matter. The key in either procedure is that the interest on the account will be going somewhere other than into the IOLTA system, so you will need a W-9 from the client specifying their socsec or EIN number for entry into the bank's accounting system.

Rebecca K. Wiess, Washington

My regular (collective) IOLTA is where I deposit all client funds, either nominal amounts or that I reasonably expect to only be held for a short period of time - the tiny amount of interest generated by this account is aggregated with interest from all other Texas IOLTA accounts and funds legal aid, etc.

However, the rules require that a separate interest bearing non-IOLTA trust account must be established for client funds to be held for a longer period of time, which are expected to earn interest in excess of the cost of maintaining a separate account. The interest earned in this case belongs to the client. This is the account I now need to set up, but have never done so before.

My operating account is at a small, local bank - great people, but I would still like to know other's experience or a 'how-to' for myself before I take this to either bank. How else will I know if they handle it correctly?

Toni Warder, Texas

Accounts and sub-accounts ~ it's good to learn the lingo! I've received two basic versions from several of you: one is a Master IOLTA that itself has sub-accounts and the other with one IOLTA account + a separate client trust account that has the sub-accounts. Armed with all these cool terms and a confident swagger, I will be able to enter the bank tomorrow and convince everyone (except maybe Tom) that I know exactly what I am doing! Thanks!

Toni Warder
