

IOLTA Accounts

A newbie question-- I assume since I will be practicing in two states, even though I will have my office only in one of those states, that I will need IOLTA Accounts for clients in each state in accordance with each states IOLTA requirements. Is this correct? I am opening my office next week and trying get my ducks all quacking in the right direction.

Probably. But I've never researched it, as I practice only in Florida. Read the IOLTA rules for each state, and if necessary, contact the respective states ethics folks for guidance. I can tell you that that the LOMAS folks here in Fla are top notch and will help you in every way they can. I imagine that's true for Mass as well.

Good luck!

Barry Kaufman, Florida

Jared Correia over at MassLOMAP is just as helpful a guy as could be - and I don't even practice law!

Here's his contact details:

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HTH.

Andrea Cannavina, non-atty

SoloSez Popular Threads, June 2014

You need an IOLTA account for each state in which either a) you are required to have one, or b) if not required to have one, you will be handling client assets. For Florida, it matters where you get the assets from as well.

The rules for Florida are here. See (g)(2).

<http://www.floridabar.org/divexe/rrtfb.nsf/FV/6D5B076E51CCBC9985257172004C0105>

Justin Meyer, New York

I practice in many states, but I only have an IOLTA in the state where my primary office is located. I am licensed in California, Connecticut and before the Patent bar, and when I researched the rules, it appeared that what I was doing is fine.

Michael A. Blake, Connecticut

I am licensed in both MA and NH. My office is in MA, as is my IOLTA. On the forms I have to sign each year when I renew my NH bar membership, there is actually a section to check off if you practice in NH but also practice elsewhere, and your IOLTA is in that other state.

Of course - all this means is that NH allows you to keep your IOLTA in another state.

Laurie Axinn Gienapp, Massachusetts

Virginia does too, but not all states do. Florida is an exception, as others have noted. Virginia requires that the account be held in a bank approved by the state bar, but that account can be elsewhere.

Kevin W. Grierson, Virginia

First, good luck in your new practice and career.

A question you did not raise involves credit card fees and electronic transfer and other bank fees.

This has come up in Solosez before and the archives should have many emails on the subject. Having said that, figuring out archives search terms here is a challenge. (If you search with term "IOLTA," it pulls up 50 emails but has an error message asking for the search to be narrowed.)

Solosez archives: <http://mail.americanbar.org/scripts/wa.exe?A0=SOLOSEZ>

SoloSez Popular Threads, June 2014

Let us say a client is paying \$3500 into your IOLTA account. The client is entitled to a credit balance in his/her IOLTA subaccount of \$3500.00. But I think with many transfers fees are taken out of that account, say a monthly maintenance fee charged by the bank.

Also, with many bank accounts, that account is billed for activity, transfers, etc. I believe the lawyer is supposed to absorb all fees, at least bookkeeping wise, so that client is paying lawyer fees and traditional expenses (such as court filing fee) from his/her IOLTA balance, and not paying the tacked on fees that nibble away.

It is another issue of whether the lawyer can capture the fees from the client in the billing process. Then there is direct capture, where a statement shows a recapture number. Indirect capture would be where the lawyer does none on that, he/she just includes these costs in figuring out his/her hourly rate.

I do not know if the IOLTA rules in the states vary in addressing the above points.

Rob Robertson, Texas

Just spoke to the IOLTA Committee of the MA Bar and they told me that I just need to comply with the IOLTA rule of Florida as long as I do not maintain a physical office in MA. If that changes, I will open the additional account but I doubt it will change.

Richard S. Rosenstein, Florida
