

DC IOLTA PROGRAM

FREQUENTLY ASKED QUESTIONS ABOUT RATE COMPARABILITY

Q. What is rate comparability?

Rate comparability makes sure that IOLTA accounts are treated fairly. Under the DC IOLTA program, banks that wish to offer IOLTA accounts must agree to pay IOLTA accounts the highest rate available at that bank to similarly situated non-IOLTA accounts. Rate comparability has been a part of DC's IOLTA program since August 1, 2010.

Q. How can banks get information about rate comparability requirements?

Detailed instructions and forms are included in the Financial Institutions Toolkit which is available on the Bar Foundation's website (www.dcbarfoundation.org/iolta). You can also contact the DC Bar Foundation for a copy at: iolta@dcbarfoundation.org

Q. How do banks comply with rate comparability?

Banks have three options to comply with rate comparability in DC. Banks can elect to provide the DC IOLTA Benchmark Rate on their DC IOLTA deposits. The Benchmark Rate is set by the DC Bar Foundation, based on analysis of relevant rates. Banks can also propose a rate to the DC Bar Foundation, providing specific supporting information demonstrating its comparability. The DC Bar Foundation will act on each proposal. Finally, banks can elect to become a DC IOLTA Prime Partner Bank, going above and beyond the straight comparability requirement by providing a higher rate of interest in order to strengthen the support for access to justice in the District. Prime Partner Banks and banks providing the Benchmark Rate receive automatic approval of their rate.

Q. How will attorneys know if their bank is in compliance and is an approved bank?

The DC Bar Foundation, which administers the DC IOLTA Program, maintains a list of approved banks on its website. Banks are approved by the DC Board on Professional Responsibility, after they have signed the BPR undertaking (agreement) and after they have been found by the DC Bar Foundation to be in compliance with the rate documentation and reporting requirements.

Q. Does the rate comparability requirement regulate banks?

No. The rule regulates the behavior of attorneys. The rule sets the terms under which banks may offer DC IOLTA accounts. Bank participation in the IOLTA program is voluntary. Setting such a requirement by rules governing attorneys is similar to other requirements for banks that want to hold attorney trust accounts, such as requiring NSF notification and reporting or record retention requirements.

Q. Does rate comparability set interest rates or require comparing rates between banks?

No. Rate comparability does not set rates or compare rates between or among banks. Rates are set by each bank for its customers based on the factors a bank normally considers when setting rates. Comparability only requires participating banks to pay interest rates comparable to what it already pays its similarly situated non-IOLTA customers. Bank can meet this requirement by providing sufficient documentation to establish this rate, or by paying the “benchmark” DC IOLTA rate, set by the DC Bar Foundation based upon analysis of the DC market.

Q. Where has rate comparability been implemented?

As of August 2012, thirty-two states plus the District of Columbia have implemented or are in the process of implementing rate comparability. The result is even-handed treatment of IOLTA accounts, and in most jurisdictions, increased revenue to support civil legal services in their community.