

## DC IOLTA Program

### Guidelines for Financial Institutions Under DC's IOLTA Rules

#### **THE DISTRICT OF COLUMBIA IOLTA PROGRAM**

“IOLTA” stands for Interest on Lawyer Trust Accounts. The District of Columbia’s IOLTA Program was started in 1985 by the District of Columbia Court of Appeals. All 50 states, DC, and the Virgin Islands have IOLTA programs. The IOLTA program requires lawyers to put certain nominal or short-term client funds into pooled escrow accounts. All DC lawyers receiving eligible client funds must have an IOLTA account. Details are in the rules available on our website.

The interest from DC IOLTA accounts is paid to the District of Columbia Bar Foundation, a tax-exempt not-for-profit organization that administers the DC IOLTA program. The Bar Foundation uses the interest generated by IOLTA accounts to support not-for-profit organizations that provide free civil legal services to poor and underserved people in the District. IOLTA funds in DC provide one of the largest single sources of funding for civil legal services in our community. IOLTA funds help lawyers keep families in their homes, protect domestic violence survivors from further harm, and secure disabled children the educational resources they need. In short, IOLTA funds make a real difference in the lives of some the most vulnerable in our community.

The IOLTA Rules issued by the DC Court of Appeals were revised effective August 2010. As a result, DC lawyers can no longer ‘opt out’ of participating in IOLTA, and are only authorized to hold funds in financial institutions that have agreed to pay IOLTA account customers the highest interest rate or dividend generally available at their own institution to similarly situated non-IOLTA customers (called interest rate comparability) to charge only allowable reasonable fees (as defined in the Rule) and to meet other requirements of the revised Rules.

#### **IOLTA ACCOUNT REQUIREMENTS UNDER THE IOLTA RULES:**

##### **INSTRUCTIONS FOR FINANCIAL INSTITUTIONS**

Financial institutions should observe the following procedures in opening and operating IOLTA accounts in the District of Columbia.

#### ***DC Bar Approval***

Prior to opening an IOLTA account, financial institutions must be approved by the District of Columbia Bar as eligible to hold IOLTA accounts for DC lawyers. Information about the required steps to receive approval can be found in the [Financial Institutions Toolkit](#), available on the Bar Foundation’s website. One important first step is to obtain DC Bar Foundation approval of your DC IOLTA account rate. (See below for further details). Approved institutions are listed on the Bar Foundation’s website at [www.dcbfoundation.org](http://www.dcbfoundation.org).

<p><b><i>Approval of IOLTA Account Rate</i></b></p>	<p>Under the IOLTA rules, financial institutions must provide comparable interest rates on the DC IOLTA accounts they hold. This means IOLTA accounts may not receive an interest rate less than that available to a similarly situated non-IOLTA account. Banks need to submit to the DC Bar Foundation the Financial Institution Compliance Statement (in the <u>Toolkit</u> on our website), electing one of the comparable rate options. <b>Banks can receive automatic approval of their DC IOLTA interest rate by electing the “Benchmark Rate” set by the Foundation or by becoming a DC IOLTA Prime Partner.</b> Alternatively, banks can propose a comparable rate and provide substantiating documentation. Proposed comparable rates are subject to review and approval by the Foundation.</p> <p>Banks with further questions on interest rate comparability can contact the DC Bar Foundation: 202-467-3750 ext 112.</p>
<p><b><i>Opening IOLTA Accounts &amp; Converting Existing non-IOLTA Pooled Accounts</i></b></p>	<p>Lawyers who need to either open an IOLTA account for the first time, or convert a non-IOLTA pooled client trust account should complete the Bar Foundation’s one-page IOLTA Account Registration form, available on the web at: <a href="http://www.dcbarfoundation.org/iolta">www.dcbarfoundation.org/iolta</a>. The form can be filled out and printed from the website. A copy of this form should go to the financial institution at which the account is opened and a copy should be sent to the Bar Foundation by mail addressed to: DC Bar Foundation, 80 M Street, SE, 1st Floor, Washington DC 20003; or fax: 202-467-3753. Financial institutions are encouraged to keep copies of this form available for attorneys or law firm representatives who need to open IOLTA accounts. Financial institutions are authorized to provide a direct link to this form on their websites to facilitate this process. More details on opening IOLTA accounts are available on the IOLTA page of the DC Bar Foundation’s website.</p>
<p><b><i>Account Name</i></b></p>	<p>The account title must contain the name of the lawyer or law firm that controls the account, <b>and</b> the words “DC IOLTA Account” or “IOLTA Account.”</p>
<p><b><i>Tax Information</i></b></p>	<p><b>All DC IOLTA accounts, wherever located, must bear the taxpayer identification number (TIN) of the DC Bar Foundation: 52-1109547.</b> The lawyer’s or law firm’s TIN <i>must not appear</i> on the IOLTA account. The accounts are exempt from backup withholding because the Foundation is a tax-exempt 501(c)(3) organization.</p> <p><b>The tax identification number will not match the name on the account.</b> That is because neither the lawyer nor the law firm is required to report the interest earned in the IOLTA account. No IRS Form 1099 need be issued for IOLTA accounts: the DC Bar Foundation, a tax-exempt organization, is the beneficial owner of the interest on these</p>

	<p>accounts. <i>Under no circumstances</i> should a Form 1099 be sent to the lawyer or law firm for an IOLTA account.</p>
<p><b><i>Interest Calculation</i></b></p>	<p>Interest on IOLTA accounts should be calculated on the average monthly balance in the account, or as otherwise computed in accordance with the bank’s standard procedures. <b>All rates paid must comply with the new rate comparability requirements, as set out in the Financial Institution Compliance Statement and the Revised Rules. D.C. Bar Rule XI, §20, and with the bank’s Compliance Statement on file with DCBF.</b></p> <p>Financial institutions providing the highest rates at the lowest cost to the Bar Foundation may be eligible for participation in the Foundation’s new ‘DC Prime Partners Program.’ See the website for more information.</p>
<p><b><i>Interest Remittance Procedures</i></b></p>	<p>Most financial institutions remit interest to the Bar Foundation on a monthly basis. Banks are required to remit interest at least quarterly. A single remittance payment may be made for multiple IOLTA accounts. The accompanying interest remittance report must include an itemization of interest and charges (if any) for each account, as specified in ‘Interest Remittance Reports,’ below. Electronic remittance and reporting are highly preferred. The Remittance Report template is located on our website. Contact <a href="mailto:iolta@dcbarfoundation.org">iolta@dcbarfoundation.org</a> for details, or call Kirra Jarratt at 202-467-3750 ext. 12. Any remittances made by check should be mailed to: DC Bar Foundation, 80 M Street SE, 1st Floor, Washington DC 20003.</p>
<p><b><i>Interest Remittance Reports</i></b></p>	<p>Financial institutions are required to report the following information <i>for each DC-IOLTA account at the institution</i> when interest is remitted to the DC Bar Foundation:</p> <ul style="list-style-type: none"> <li>• Name of lawyer or law firm holding the account.</li> <li>• Address of lawyer or law firm holding the account.</li> <li>• Applicable interest rate on the account.</li> <li>• Average monthly balance in each account.</li> <li>• Fees and charges for each account, if any.</li> <li>• Total interest earned for each account during the reporting period.</li> <li>• Total interest remitted.</li> <li>• Total number of DC-IOLTA accounts held at institution.</li> </ul> <p>Note that this report can be provided electronically (preferred) or in hard copy. A copy of the report template can be downloaded from our website. Contact the Bar Foundation for more information at: 202-467-3750 or <a href="mailto:iolta@dcbarfoundation.org">iolta@dcbarfoundation.org</a>.</p>

<p><i>Account Fees &amp; Charges</i></p>	<p>Under the revised Rules, only allowable reasonable fees/service charges can be assessed on IOLTA accounts. Allowable reasonable fees for IOLTA accounts are per check charges, per deposit charges, a fee in lieu of a minimum balance, federal deposit insurance fees, sweep fees, and a reasonable IOLTA account administrative or maintenance fee. These fees and charges cannot exceed the bank’s customary practices for non-IOLTA accounts. No fees or service charges other than the allowable reasonable fees defined above may be assessed against the interest or dividends on a DC IOLTA account. Any fees and service charges other than allowable reasonable fees shall be the sole responsibility of, and may only be charged to, the lawyer or law firm maintaining the IOLTA account. Allowable reasonable fees in excess of the interest or dividends earned on one DC IOLTA account for any period shall not be taken from interest or dividends earned on any other IOLTA account or accounts or from the principal of any IOLTA account.</p> <p>Many institutions waive all fees on IOLTA accounts to maximize the benefit of the interest income for the funded programs.</p>
<p><i>Account Closings/Escheatment</i></p>	<p>When a DC IOLTA Account is closed, please inform DCBF by email or fax. <b>NOTE:</b> Before DC IOLTA funds are escheated you must <b>contact the DC Office of Bar Counsel</b>, to determine whether further action is required to locate the owner(s) of the funds.</p>

### **IOLTA PRIME PARTNER PROGRAM**

While the provisions of interest rate comparability described above determine the minimum rate that eligible financial institutions may pay on IOLTA accounts, leadership institutions in DC have historically gone above and beyond the minimum requirements to insure the laudable goals of the IOLTA program are achieved.

The D.C. Bar Foundation recognizes financial institutions that exceed the minimum requirements of participation and qualify for the IOLTA Prime Partner Program. This program is open to any financial institution that:

- Receives and maintains D.C. Bar approval, and
- Agrees to pay an interest rate, net of allowable reasonable fees, that is the higher of 1) 75% or more of the Fed Funds Target Rate; or 2) a minimum of 1.00% on all IOLTA accounts. Additional details are in the Prime Partner Package. Rate subject to change.

This program builds on the highly successful DC Preferred Bank Program, by responding to the new rules and carrying forward our strong appreciation and support of banks that go above and beyond the minimum requirements to support DC IOLTA. The DC Bar Foundation will list the DC Prime Partner Banks on its website, and in regular IOLTA ads in *The Washington Lawyer*, a monthly magazine received by all members of the D.C. Bar, and is undertaking other activities to recognize the significant contributions our Prime Partners make to the DC community.

Financial institutions interested in learning more about the DC Prime Partner Program can download the Prime Partner Package from our website, or can contact Bar Foundation Executive Director, Kirra L. Jarratt at: 202-467-3750 ext. 12 or [jarratt@dcbfoundation.org](mailto:jarratt@dcbfoundation.org).

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If you have any questions about the DC-IOLTA program, please contact us. Together, we can maintain a strong IOLTA program that helps the neediest in our community.