Useful Links and Contacts Concerning Washington IOLTA Accounts

- General information: https://www.wsba.org/for-legal-professionals/ethics/iolta
- Ethics Line: https://www.wsba.org/for-legal-professionals/ethics/ethics-line
  Telephone: 206-727-8284 or 800-945-WSBA (9722)
- Legal Foundation of Washington: https://legalfoundation.org/iolta/

Oregon and Washington - A Quick Comparison

If you practice in Oregon and Washington, learn and understand the differences between Oregon and Washington trust accounting rules, which include:

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Washington</th>
<th>Oregon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Random Audits of Lawyer Trust Accounts?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Nonlawyers Prohibited from Signing Trust Account Checks?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Trust Account Record Retention Requirements</td>
<td>7 Years</td>
<td>5 Years</td>
</tr>
<tr>
<td>Two Merchant Accounts Required if Accepting Credit Cards?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Special Restrictions on Flat or “Earned on Receipt” Fees?</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Use Client’s taxpayer ID number on individual trust account?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

Merchant Accounts

**Washington**: If you accept credit card payments for both earned fees and advance fees/costs, you must have two merchant accounts.

**Oregon**: If the bank requires that you designate a single merchant account for all credit card transactions and you accept credit card payments for earned and unearned fees, your merchant account should be a trust account. Commingling is avoided by promptly transferring those funds into your business account (once the credit card transaction has cleared the bank). OSB Formal Ethics Opinion No. 2005-172.
Flat Fees

**Washington**: Review Washington RPC 1.5(f)(1) and (f)(2). Also see the discussion in *Managing Client Trust Accounts – Rules, Regulations, and Common Sense* referred to above.

**Oregon**: Review Oregon RPC 1.5, 1.15, and OSB Formal Ethics Opinion No. 2005-151:

- Money paid to a lawyer BEFORE services are rendered must be put in the trust account unless the lawyer and the client have a signed, written agreement which designates the money as earned on receipt. The written agreement must explain that the funds will not be deposited into the lawyer trust account and the client may discharge the lawyer at any time and in that event may be entitled to a refund of all or part of the fee if the services for which the fee was paid are not completed. (ORPC 1.5(c)(3), amended December 2010). See OSB Formal Ethics Opinion No. 2005-151.

- A lawyer who receives a fixed fee before performing services and who has no signed, written agreement with the client that the fee is earned on receipt, may transfer the funds from trust only upon completion of the agreed services. See OSB Formal Ethics Opinion No. 2005-151.

- Even a fee designated as a fixed fee, earned on receipt, or a “nonrefundable” fee is subject to refund if the specified services for which the fee was paid are not performed. This is true whether the money has been placed in the trust or general account. Whether, or to what extent, a lawyer must refund fees paid in advance when a client terminates the lawyer’s services in bad faith near the end of a matter is an open question. See OSB Formal Ethics Opinion No. 2005-151.

- Use of the term “nonrefundable” should be avoided. Such a designation may be misleading, if not false, in violation of ORPC 8.4(a)(3), which prohibits conduct involving “dishonesty, fraud, deceit or misrepresentation that reflects adversely on the lawyer’s fitness to practice law.” See OSB Formal Ethics Opinion No. 2005-151.

**IF YOU ARE AN OREGON LAWYER WITH WASHINGTON CLIENTS, TRUST ACCOUNT FUNDS ACCRUING AS A RESULT OF PRACTICE UNDER YOUR WASHINGTON LICENSE SHOULD BE HANDLED PURSUANT TO WASHINGTON RULES. SEE WSBA ADVISORY OPINION NO. 959.**

**Questions? Looking for Help?**

If you are a Washington practitioner and have questions about the Washington RPCs, contact the Washington State Bar Association (WSBA) Ethics Line, [https://www.wsba.org/for-legal-professionals/ethics/ethics-line](https://www.wsba.org/for-legal-professionals/ethics/ethics-line). Telephone: 206-727-8284 or 800-945-WSBA (9722).

Confidential assistance with trust account questions is also available from the Practice Management Advisors at the Professional Liability Fund, [https://www.osbplf.org/](https://www.osbplf.org/). Telephone: 503-639-6911 or 800-452-1639.

**Practice Tips for Washington/Oregon Practices**

- Review your fee agreements to verify they conform to rules and ethics opinions in the states in which you practice.


- Download *Managing Client Trust Accounts – Rules, Regulations, and Common Sense* from the WSBA.

**IMPORTANT NOTICES**

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