Q What effect does IOLTA have on clients?

A IOLTA has no effect on clients. When no interest is earned on funds in attorney trust accounts which are nominal or short-term, no one benefits except the financial institutions. The practical effect of the IOLTA program is to shift a part of the economic benefit from depository institutions to tax exempt organizations. There is no economic injury to any client. The program creates income where there was none before.

Q How does the IOLTA program affect current attorney trust fund practices?

A IOLTA imposes no new decisional burden upon attorneys. Lawyers have always exercised their discretion in determining whether a given client's trust deposit was of sufficient size or duration to justify placement in a separate interest-bearing account, with the interest payable to the client. Under the IOLTA program, attorneys retain their discretion and continue to make these fiduciary decisions after considering associated costs and practicality.

By joining IOLTA, however, attorneys' unsegregated trust accounts can generate interest income, which is sent to the Alaska Bar Foundation to be used for grants to programs that provide civil legal services to the poor.

Q Is the IOLTA program ethical, constitutional and otherwise legal?

A Yes. IOLTA programs have now been created in 50 states, the District of Columbia, and the Virgin Islands, including 27 programs that require all attorneys to use IOLTA. There have been several decisions by state and federal courts relative to IOLTA challenges which have uniformly upheld the program. Www.abanet.org/legalservices/iolta/home.html has the most recent developments in IOLTA litigation. The IRS has approved IOLTA, and the American Bar Association's Standing Committee on Ethics and Professional Responsibility and numerous state bar committees have concluded that attorney participation in IOLTA is ethical and commendable.

Q How is the interest disbursed?

A The bank automatically sends the interest directly to the Alaska Bar Foundation. The client trust account statements remain the same. No tax liabilities or tax benefits are created by the program for the lawyer or the lawyer's client. Since ABF is the recipient of the interest, the bank uses the ABF federal ID number and sends the 1099's to ABF.

Q Who pays the bank service charges?

A ABF pays all normal banks charges relating to the operation of IOLTA accounts. Client funds are never affected.

Q How do I sign up for IOLTA?

A Contact your financial institution and ask to set up an IOLTA account. Notice to Financial Institution forms can be found on the website www.alaskabar.org or call 907-272-7469.

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IOLTA

Interest On Lawyer Trust Accounts

Alaska Bar Foundation

IOLTA

Interest On Lawyer Trust Accounts

On November 20, 1986, the Alaska Supreme Court adopted amendments to Alaska Rule of Professional Conduct 1.15 (d)-(e) establishing the Alaska IOLTA program. The program became operational in March of 1987 and is administered by the Alaska Bar Foundation Board of Trustees (ABF).

The purpose of the Alaska IOLTA program is to provide funds for civil legal services to the poor. ABF uses the income generated by the IOLTA program to make grants to non-profit providers of legal services throughout the state. The IOLTA program is important in Alaska because government budget cuts have drastically eroded the funds available for civil legal services for the poor.

The Alaska IOLTA program is similar to programs developed in 50 states, the District of Columbia, the Virgin Islands and the Canadian provinces. In 2003, $133.8 million has been generated through IOLTA programs nationwide on trust funds once deposited in non-interest-bearing accounts.

The Alaska Bar Association Rules of Professional Conduct charges attorneys with the responsibility of ensuring access to justice to those unable to afford it, promoting improvements in the efficient and fair administration of justice and assisting in the understanding of our legal system by the public at large. Attorneys have a professional obligation to contribute to the delivery of legal services to the poor. Participation in the IOLTA program is a convenient, ethical and efficient mechanism to render part of this responsibility.

Q What is a lawyer's "trust" obligation?

A Attorneys routinely receive client funds, securities or other properties to be held in trust for future use. If the trust amount is larger or if it will be held for a long period of time, the attorney has a fiduciary obligation to place these trust properties in an interest-bearing account for the benefit of the client. However, in the case of trust properties that are small or are to be held for a short period of time, it is impractical to establish separate interest-bearing accounts for individual clients.

Q Where have these nominal and short-term properties been deposited in the past?

A They have been held in non-interest-bearing checking accounts separate and apart from all other funds belonging to the lawyer. As Rule 1.15 (a) of the Alaska Bar Association Rules of Professional Conduct has always dictated, trust accounts may never be commingled with lawyers' personal accounts. The lawyer is a fiduciary for these trust account funds and cannot derive any direct or indirect personal benefit from them.

Q What are the tax consequences?

A There are no tax consequences for either the lawyer or the client if IRS requirements are met. The IRS has ruled that the IOLTA program must apply to the nominal and short-term funds of all clients of a participating lawyer (if an individual could elect not to participate in the program, an assignment of income problem would arise).

Q Must clients be notified that a lawyer is joining the IOLTA program?

A No. In the 1982 opinion regarding the nation's first IOLTA program, the Supreme Court of Florida ruled that notification is not necessary to clients whose funds are nominal in amount and are to be held for a short period of time. Some lawyers, however, prefer to inform their clients that they are participating in an IOLTA program.

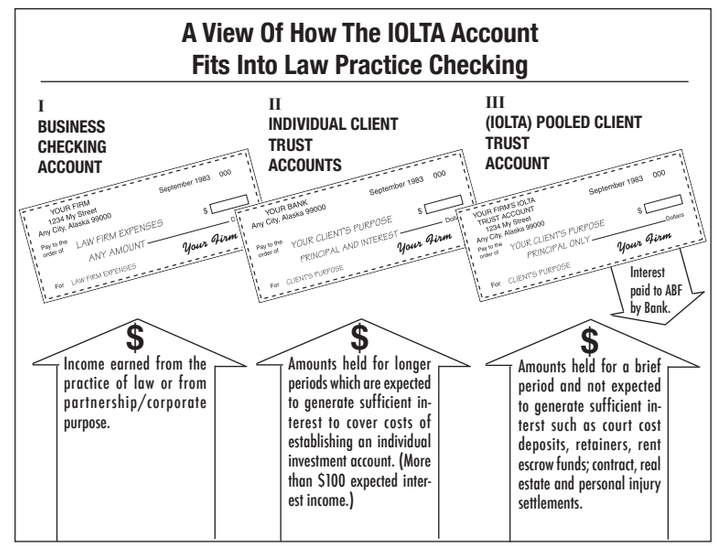
Q What effect will joining IOLTA have on an attorney's banking relationship?

A Most lawyers experience no change in the relationship relative to their banking institutions.

Q Where does a lawyer draw the line between which funds can be deposited individually and which funds cannot?

A The Alaska Bar Association Rules of Professional Conduct 1.15 (d)(2) states that:

> Only funds of clients which are nominal in amount or are expected to be held for a short period of time may be deposited in such (an IOLTA) account. Funds, which reasonably may be expected to generate in excess of $100 interest, may not be deposited in such account.

The following table shows the time required to generate $100 gross interest at the prevailing passbook rate:

Principal Deposit	Number of Days Required
$ 1,000	3,650
$ 5,000	730
$ 10,000	366
$ 20,000	183
$ 30,000	122