



**COLORADO SUPREME COURT
Office of Attorney Regulation Counsel**

Trust Account Manual

Basic Requirements for Trust Accounts

What is a Trust Account?

A trust account is an interest-bearing bank account that contains those funds entrusted to the lawyer's care and any advance payment of fees that have not been earned or advance payment of expenses that have not been incurred. A lawyer may also deposit funds sufficient to pay anticipated service charges or other fees for maintenance or operation of the trust account. Such funds shall be identified in the lawyer's records of the account.

Where May Lawyer Have a Trust Account?

A trust account should be maintained at a financial institution doing business in Colorado. Even if a lawyer or law firm participates in Interest on Lawyer Trust Account ("IOLTA") programs in more than one jurisdiction, including Colorado, IOLTA funds that the lawyer or law firm holds in connection with the practice of law in Colorado should be held in the lawyer or law firm's COLTAF account (as defined in Rule 1.15B(2)(b)).

The Office of Attorney Regulation Counsel (ARC) must approve the financial institution, and only those institutions that have entered into a written agreement with ARC are approved. The agreement requires that the institution report to the ARC in the event that any properly payable trust account instrument is presented to the institution when there are insufficient funds in the account to pay it. The ARC annually publishes a list of such approved financial institutions. However, if each client and third person whose funds are in the account is informed in writing by the lawyer that Regulation Counsel will not be notified of any overdraft on the account, and with the informed consent of each such client and third person, a trust account in which interest or dividends are paid to the clients or third persons need not be in an approved institution. All attorneys must file a statement with their annual attorney registration payment that includes the name of the institution where their trust accounts are maintained and identification numbers of each account. For each trust account, the statement must indicate the account number, the name of the account, and the depository institution.

Types of Trust Accounts: the COLTAF Trust Account

One or more of a lawyer's trust accounts may be, but need not be, a Colorado Lawyer Trust Account Foundation ("COLTAF") account, kept in accordance with Colo. RPC 1.15B(b) – (j) and 1.15E. A COLTAF trust account is a pooled interest-bearing, or dividend-paying, insured depository account for funds of clients or third persons that are nominal in amount or are expected to be held for a short period of time. The interest earned on a COLTAF account is paid to the Foundation, which in turn donates the money to charitable causes. No interest from such an account is payable to a lawyer or law firm.

It is up to the lawyer's good faith judgment to determine whether the client or third party's funds are of such a nominal amount, or are expected to be held for such a short time period, that the establishment of a COLTAF account is appropriate. In some cases, a client or a third party may give a lawyer funds that are more than nominal, in which case a COLTAF account is likely NOT appropriate.

Establishment of Separate Trust Accounts

There is no limit on the number of trust accounts a lawyer may maintain. The establishment of separate trust accounts may be warranted when, in connection with a representation, a lawyer is administering estate monies or acting in a similar fiduciary capacity for clients, or when a lawyer has accepted large flat fees or a large retainer. In such circumstances, the lawyer should establish a trust account that is only for those funds.

Trust Accounts Must Be Separate From All Office or Professional Accounts

A lawyer's professional, business, operating or office account, in which all funds received for professional services are deposited, shall be kept separate from the trust account.

Name of Trust Accounts

All trust accounts or COLTAF accounts must be prominently designated as a "trust account" or a "COLTAF Trust Account," respectively. Additionally, the lawyer's business account must be designated as either "professional account," "operating account," "business account" or "office account."

Management of Trust Accounts 1.15C

As an agent, a lawyer is a fiduciary and must appropriately manage client or third party's money. In accordance with Rule 1.15C:

A lawyer may not use any debit card or ATM card to withdraw funds from a trust account, and cash withdrawals and checks made payable to cash are prohibited.

Only a lawyer admitted to practice law in Colorado or a person supervised by such lawyer may be an authorized signatory on a trust account or may withdraw or transfer funds from or to a trust account.

At least quarterly, a lawyer should reconcile all trust accounts to ensure that all accounting is up to date.

Bookkeeping Requirements 1.15D

Keeping complete records of the trust account can assist the lawyer in showing that all uses of the client's or third person's money are proper and that the lawyer has kept his or her own money appropriately segregated from client funds. Upon request, the lawyer is required promptly to render a full accounting of what the lawyer has done with money held in a trust account, Colo. RPC 1.15A(b); accordingly, adequate record keeping is essential. See Section 10 below for a complete discussion of the required accounting records.

Besides clients, other people, including the lawyer's creditors, tax agencies, or heirs of a client, may be entitled to review the lawyer's finances. For example, creditors may try to show that the lawyer is keeping his or her own money in the trust account. Complete records are essential to show what the lawyer has done with other people's money.