

1 ~~Article 10.~~Rule 4-1001. IOLTA.

2 (a) A lawyer or law firm must create and maintain an interest or dividend-bearing trust  
3 account for client funds (“IOLTA account”). All client funds must be placed into this  
4 account except those funds which can earn net income for the client in excess of the costs  
5 to secure such income, except as provided in paragraph (g).

6 (b) In determining whether a client’s funds can earn net income in excess of the costs of  
7 securing that income for the benefit of the client, the lawyer or law firm must consider  
8 the following factors:

9 (1) the amount of the funds to be deposited;

10 (2) the expected duration of the deposit, including the likelihood of delay in the matter  
11 for which funds are held;

12 (3) the rates of interest or yield at financial institutions where the funds are to be  
13 deposited;

14 (4) the costs of establishing and administering non-IOLTA accounts for the client’s  
15 benefit, including service charges, and the costs of preparing any tax reports required  
16 for income accruing to the client’s benefit; and

17 (5) the capability of financial institutions, lawyers, or law firms to calculate and pay  
18 income to individual clients and any other circumstances that may affect the ability of  
19 the client’s funds to earn net income.

20 (c) The lawyer or law firm must review each of its IOLTA and non-IOLTA client trust  
21 account(s) (collectively, “client trust account”) at reasonable intervals, but not less than  
22 annually, to determine whether changed circumstances require further action with  
23 respect to the funds of a particular client.

24 (d) The lawyer or law firm must:

25 (1) not allow earnings from- a client trust account to be made available to a lawyer or  
26 law firm;

27 (2) place in the IOLTA account all client funds which cannot earn net income for the  
28 client in excess of the costs of securing that income;

29 (3) establish an IOLTA account with an eligible financial institution that has  
30 voluntarily chosen to offer and maintain IOLTA accounts, and:

31 (A) is authorized by federal or state law to do business in Utah and has a  
32 depository branch physically located in Utah;

33 (B) is insured by the Federal Deposit Insurance Corporation or its equivalent;

34 (C) complies with [Rule 1.15\(a\)](#) of the Utah Rules of Professional Conduct; and

35 (4) direct the depository institution where the IOLTA account is established:

36 (A) to remit all interest or dividends, net of allowable reasonable service charges  
37 or fees, if any, on the average monthly balance in the account, or as otherwise  
38 computed in accordance with the institution's standard practice, at least quarterly,  
39 solely to the Utah Bar Foundation ("Foundation"). When feasible, the depository  
40 institution must remit the interest or dividends on all of its IOLTA accounts in a  
41 lump sum, however, the depository institution must provide, for each individual  
42 IOLTA account, the information to the Foundation required by paragraphs  
43 (d)(4)(B) and (d)(4)(C) of this rule;

44 (B) to report in a form and through any manner of transmission approved by the  
45 Foundation showing the name of the lawyer or law firm and the amount of the  
46 remittance attributable to each, account number for each account, the rate and type  
47 of interest or dividend applied, the amount and type of allowable reasonable  
48 service charges or fees deducted, the average account balance for the reporting  
49 period, and such other information as is reasonably required by the Foundation;

50 (C) to report in accordance with normal procedures for reporting to depositors;

51 (D) that allowable reasonable service charges or fees in excess of the interest  
52 earned on the account for any period must not be taken from interest earned on  
53 other IOLTA accounts or any principal balance of the accounts; and

54 (E) to comply with all other administrative rules for IOLTA accounts as  
55 promulgated by the Foundation or the Supreme Court.

56 (e) The determinations of whether or not an institution is an eligible institution and  
57 whether it is meeting the requirements of this rule must be made by the Foundation. The  
58 Foundation must maintain a list of participating eligible financial institutions and must  
59 provide a copy of the list to any Utah lawyer upon request.

60 (f) Lawyers may only maintain IOLTA accounts in eligible financial institutions. Eligible  
61 financial institutions are those that voluntarily offer IOLTA accounts and comply with  
62 the requirements of this rule, including maintaining IOLTA accounts which pay the  
63 highest interest rate or dividend generally available from the institution to its non-IOLTA  
64 account customers when IOLTA accounts meet or exceed the same minimum balance or  
65 other account eligibility qualifications, if any. In determining the highest interest rate or  
66 dividend generally available from the institution to its non-IOLTA accounts, eligible  
67 institutions may consider factors, in addition to the IOLTA account balance, customarily  
68 considered by the institution when setting interest rates or dividends for its customers,  
69 provided that such factors do not discriminate between IOLTA accounts and accounts of  
70 non-IOLTA customers, and that these factors do not include that the account is an IOLTA  
71 account.

72 (1) An eligible financial institution may satisfy these comparability requirements by  
73 ~~electing~~ satisfying one of the following options:

74 (A) establish the IOLTA account as the comparable rate product; or

75 (B) pay the comparable rate on the IOLTA checking account in lieu of actually  
76 establishing the comparable highest interest rate or dividend product;

77 (C) pay an amount on funds that would otherwise qualify for the investment  
78 options noted at [subparagraph](#) (f)(3) equal to 70% of the federal funds targeted  
79 rate as of the first business day of the month or other IOLTA remitting period,  
80 which is deemed to be already net of allowable reasonable service charges or fees.  
81 The safe harbor yield rate may be adjusted once per year by the Foundation, upon  
82 90 days written notice to financial institutions participating in the IOLTA program;  
83 or

84 (D) pay a yield rate specified by the Foundation, if the Foundation so chooses,  
85 which is agreed to by the financial institution. The rate would be deemed to be  
86 already net of allowable reasonable fees and would be in effect for and remain  
87 unchanged during a period of no more than ~~12~~ ~~twelve~~ months from the inception  
88 of the agreement between [the](#) financial institution and the Foundation.

89 (2) IOLTA accounts may be established as:

90 (A) a business checking account with an automated investment feature, such as an  
91 overnight and investment in repurchase agreements or money market funds  
92 invested solely in or fully collateralized by U.S. government securities, including  
93 U.S. Treasury obligations and obligations issued or guaranteed as to principal and  
94 interest by the United States or any agency or instrument thereof;

95 (B) a checking account paying preferred interest rates, such as money market or  
96 indexed rates;

97 (C) a government interest-bearing checking account such as accounts used for  
98 municipal deposits;

99 (D) an interest-bearing checking account such as a negotiable order of withdrawal  
100 (NOW) account, or business checking account with interest; or

101 (E) any other suitable interest-bearing deposit account offered by the institution to  
102 its non-IOLTA customers.

103 (3) A daily financial institution repurchase agreement must be fully collateralized by  
104 the United States Government Securities and may be established only with an eligible  
105 institution that is “well capitalized” or “adequately capitalized” as those terms are  
106 defined by applicable federal statutes and regulations. An open-end money-market  
107 fund must be invested solely in the United States Government Securities or  
108 repurchase agreements fully collateralized by United States Government Securities,  
109 must hold itself out as a “money-market fund” as that term is defined by federal  
110 statutes and regulations under the Investment Company Act of 1940 and, at the time  
111 of the investment, must have total assets of at least two hundred fifty million dollars  
112 (\$250,000,000).

113 (4) Nothing in this rule- precludes a participating financial institution from paying a  
114 higher interest rate or dividend than described above or electing to waive any service  
115 charges or fees on IOLTA accounts.

116 (5) Interest and dividends must be calculated in accordance with the participating  
117 financial institution’s standard practice for non-IOLTA customers.(6) “Allowable  
118 reasonable service charges or fees” for IOLTA accounts are defined as per check  
119 charges, per deposit charges, a fee in lieu of minimum balances, sweep fees, FDIC  
120 insurance fees, and a reasonable IOLTA account administrative fee.

121 “Allowable reasonable service charges or fees” for IOLTA accounts are defined as per  
122 check charges, per deposit charges, a fee in lieu of minimum balances, sweep fees,  
123 FDIC insurance fees, and a reasonable IOLTA account administrative fee.

124 (7) Allowable reasonable service charges or fees may be deducted from interest or  
125 dividends on an IOLTA account only at the rates and in accordance with the  
126 customary practices of the eligible institution for non-IOLTA customers. No fees or  
127 service charges other than allowable reasonable fees may be assessed against the  
128 accrued interest or dividends on an IOLTA account. Any fees and service charges  
129 other than allowable reasonable fees must be the sole responsibility of, and may be  
130 charged to, the lawyer or law firm maintaining the IOLTA account.

131 (g) Any IOLTA account which has or may have the net effect of costing the IOLTA  
132 program more in fees than earned in interest over any time period ~~of any time~~, may at  
133 the discretion of the Foundation, be exempted from and removed from the IOLTA  
134 program. Exemption of an IOLTA account from the IOLTA program revokes the  
135 permission to use the Foundation's tax identification number for that account. Exemption  
136 of such account from the IOLTA program will not relieve the lawyer and/or law firm  
137 from the obligation to maintain the property of client funds separately, as required above,  
138 in a non-interest bearing account and also will not relieve the lawyer of the annual IOLTA  
139 certification.

140 (h) In the event a lawyer determines that funds placed in an IOLTA account should have  
141 been placed in an interest bearing account for the benefit of the client, the lawyer, or law  
142 firm must:

143 (1) make a request for a refund in writing, in a timely manner, to the Foundation on  
144 firm letterhead within a reasonable period of time after the interest was remitted to  
145 the Foundation; and

146 (2) provide verification from the financial institution of the interest amount. In no  
147 event will the Foundation refund more than the amount of net interest it received;  
148 remittance must be made to the financial institution for transmittal to the lawyer or  
149 law firm, after appropriate accounting and reporting.

150 (i) On or before September 1 of each year, any lawyer admitted to practice in Utah must  
151 certify to the Foundation, in such form as the Foundation provides ("IOLTA Certification  
152 Form"), that the member is in compliance with, or is exempt from, the provisions of this  
153 rule. If the lawyer or law firm maintains an IOLTA account, the lawyer must certify the  
154 manner in which the lawyer accounts for the interest on clients' trust accounts. The  
155 IOLTA Certification Form must include the financial institution, account numbers, name  
156 of accounts and such other information as the Foundation requires. If the lawyer is  
157 exempt from the IOLTA program, the lawyer must still submit an IOLTA Certification  
158 Form annually to certify to the Foundation that he or she is exempt from the provisions

159 in this rule. Each lawyer must keep and maintain records supporting the information  
160 submitted in the IOLTA Certification Form. The lawyer must maintain these records for  
161 a period of five years from the end of the period for which the IOLTA Certification Form  
162 is filed, and these records must be submitted to the Foundation upon written request.  
163 Failure by the lawyer to produce such records within ~~thirty~~30 days after written request  
164 by the Foundation constitutes a rebuttable presumption that the lawyer has not complied  
165 with these rules.

166 (1) If the IOLTA Certification Form is timely filed, indicating compliance, there will  
167 be no acknowledgement. Should an IOLTA Certification Form filed by a lawyer fail  
168 to evidence compliance, the Foundation must contact the lawyer and attempt to  
169 resolve the non-compliance administratively.

170 (2) The Foundation must furnish annually to the Utah Supreme Court a list of all  
171 licensed Utah lawyers who have not timely filed an IOLTA Certification Form and  
172 any lawyers with whom the Foundation has been unable to administratively resolve  
173 an impediment to the proper filing of an IOLTA Certification Form or the proper  
174 compliance with this rule.

175 (3) Any lawyer who is not in compliance with IOLTA or who has failed to complete  
176 the IOLTA Certification Form by September 1 will be sent, by certified mail, return  
177 receipt requested, a non-compliance notice. Should the attorney fail or refuse to rectify  
178 the situation within ~~thirty~~(30) days of such notice, the Foundation must petition the  
179 Utah Supreme Court for the lawyer's suspension from the practice of law.

180 (4) A lawyer suspended by the Utah Supreme Court under the provisions of this rule may  
181 be reinstated by the Court upon motion of the Foundation showing that the lawyer cured  
182 the noncompliance issue for which the lawyer was suspended. If a lawyer was suspended  
183 by the Utah Supreme Court for non-compliance with these rules, the lawyer must then  
184 comply with all applicable rules to be eligible to return to active or inactive status.

185 (j) A lawyer may be exempt from having to maintain an IOLTA account for the following  
186 reasons:

187 (1) the lawyer or law firm's client trust account has been exempted and removed from  
188 the IOLTA program by the Foundation pursuant to paragraph (g) ~~of this rule~~; or

189 (2) the lawyer certified in his or her most recent annual IOLTA Certification Form that  
190 the lawyer:

191 (A) is not engaged in the private practice of law or does not manage or handle  
192 client trust funds and does not have a client trust account (e.g., corporate counsel,  
193 judge, employed by local, state or federal government who does not handle client  
194 trust funds, or in private practice but does not handle client monies and has no  
195 client trust account);

196 (B) does not have an office within Utah and has the client's permission to hold the  
197 funds out of state; or

198 (C) has been exempted by an order of general or special application of this Court  
199 which is cited in the certification;

200 (3) the lawyer or law firm petitions for and receives a written exemption from the  
201 Foundation that compliance with this rule would create an undue hardship on the  
202 lawyer and would be extremely impractical, based on geographic distance between  
203 the lawyer's principal office and the closest depository institution which is  
204 participating in the IOLTA program.

205 (k) Lawyers licensed in Utah must notify the Foundation in writing within ~~thirty (30)~~  
206 days of any change in IOLTA status, including the opening or closing of any IOLTA  
207 accounts.

208 (l) The Foundation is the only entity authorized to receive and administer IOLTA funds  
209 in Utah.

210 (1) The Foundation has general supervisory authority over the administration of the  
211 IOLTA funds, subject to the continuing jurisdiction of the Supreme Court.

212 (2) The Foundation receives the net earnings from all IOLTA accounts and must make  
213 appropriate investments of IOLTA funds. The Foundation must maintain proper  
214 records of all IOLTA receipts and disbursements, which records may be audited or  
215 reviewed annually by a certified public accountant. The Foundation must annually  
216 present to the Supreme Court a reviewed or audited financial statement of the IOLTA  
217 receipts and expenditures for the prior year and a summary thereof must be made  
218 available to anyone requesting copies.

219 (3) The Foundation must present annually to the Supreme Court a status report on  
220 activities of the Foundation and compliance with these rules.

221 (4) The Foundation must make disbursements from the IOLTA program funds,  
222 including current and accumulated net earnings, by grants, appropriations, and other  
223 appropriate measures, as outlined in the articles and by-laws for the organization.

224 (5) The Foundation may promulgate such other rules, procedures, reports, and forms  
225 that are necessary or advisable for the proper implementation of the foregoing rules.

226 **(m) Unclaimed funds in IOLTA or non-IOLTA client trust accounts.**

227 (1) A lawyer or law firm with unclaimed funds in a client trust account must make a  
228 good faith effort to locate the owner of the funds. Unclaimed funds are monies which  
229 a lawyer or law firm is holding in a client trust account that should be distributed to  
230 a client, former client, or third party, but there has been no response to the lawyer's  
231 or law firm's reasonable efforts to encourage the party to claim their rightful funds. If  
232 the owner is unable to be located or does not claim their funds, the lawyer or law firm  
233 must transfer all unclaimed client funds to the Utah Unclaimed Property Division.

234 (2) The representative for the estate of a deceased or incapacitated lawyer must notify  
235 the Office of Professional Conduct if there are unclaimed funds held in a client trust

236 account prior to the estate remitting those funds to the Utah Unclaimed Property  
237 Division.

238 (3) ~~After 7/9/2025, t~~The Foundation may not receive or hold unclaimed client funds.  
239 ~~Within sixty 60 days after the 7/9/2025 effective date, the Foundation must transfer~~  
240 ~~all unclaimed client funds and identifying information about the funds currently held~~  
241 ~~by the Foundation to the Utah Unclaimed Property Division and maintain a record of~~  
242 ~~the transfer for five years.~~

243 (n) **Unidentified funds in IOLTA or non-IOLTA client trust accounts.**

244 (1) The Foundation will receive all unidentified funds that come from a client trust  
245 account. Unidentified funds are accumulated funds in a client trust account that  
246 cannot be reasonably documented as belonging to a client, former client, third party,  
247 or the lawyer or law firm.

248 (2) A lawyer, law firm, or representative for the estate of a deceased or incapacitated  
249 lawyer that learns of unidentified funds in their client trust account must make  
250 periodic efforts to identify and return the funds to the rightful owner. If after 12  
251 months from the discovery of the unidentified funds, it is determined that further  
252 efforts to ascertain the ownership of the funds will not succeed, the lawyer, law firm,  
253 or representative must remit the funds to the Foundation. A lawyer that remits funds  
254 in error or subsequently identifies the owner of the remitted funds may make a claim  
255 for a refund to the Foundation within three years of the date of remittance. The  
256 Foundation will return the funds to the lawyer after verifying the claim. A lawyer or  
257 law firm's remittance to the Foundation under this paragraph will not constitute  
258 misconduct or grounds for discipline if the lawyer or law firm exercised reasonable  
259 efforts to identify the owner of the funds and remitted the funds to the Foundation in  
260 good faith.

261 (3) If any unidentified funds from a lawyer or law firm's client trust account are  
262 remitted to the Utah Unclaimed Property Division, the Division will notify the

263 Foundation and transfer collected funds along with any identifying information  
264 regarding the account to the Foundation for further investigation.

265 (4) If a financial institution identifies that a lawyer's client trust account owner is  
266 deceased or has abandoned funds maintained in an IOLTA or non-IOLTA client trust  
267 account, the financial institution should notify the Foundation about the account  
268 balance and all relevant account ownership information. Financial institutions may  
269 remit funds to the Utah Unclaimed Property Division which will transfer the funds to  
270 the Foundation or funds may be directly remitted to the Foundation for further  
271 investigation.

272 (5) The Foundation will administer all unidentified funds remitted from an IOLTA or  
273 non-IOLTA client trust account. The Foundation will:

274 (A) receive and hold all funds from any person or entity with unidentified client  
275 trust account funds;

276 (B) maintain all relevant records relating to the funds;

277 (C) within thirty days of receiving the funds, provide notice to the Office of  
278 Professional Conduct and the Fund for Client Protection of funds, any identifying  
279 information received about the account, and the total amount of the funds  
280 received;

281 (D) request in writing that the Office of Professional Conduct attempt to identify  
282 the owner of any unidentified funds with a balance of \$1,000 or greater;

283 (E) act in accordance with written direction from the Office of Professional  
284 Conduct and/or the Fund for Client Protection to transfer the principal balance of  
285 funds to the Utah State Bar when ownership of funds has been established so that  
286 the funds can be returned to the client or used to reimburse a claim approved by  
287 the Fund for Client Protection; and

288 (F) send written notification to the Office of Professional Conduct and the Fund  
289 for Client Protection when unidentified funds have been held for more than three

290 years by the Foundation to confirm that ownership is unable to be determined and  
291 no case has been opened by OPC or the Fund for Client Protection. Upon  
292 confirmation from those entities, those funds will escheat to the Foundation for  
293 use consistent with their charitable mission.

294 (o) Upon written request from the Utah Office of Professional Conduct or the Fund for  
295 Client Protection at the Utah State Bar, the Foundation will provide client trust account  
296 status and related information on a lawyer or law firm.

297 *Effective ~~July 9, 2025~~*