

CHECKLIST FOR CLOSING YOUR IOLTA ACCOUNT

1. Reconcile the IOLTA account. Any funds remaining in the account should correspond to specific clients, nominal funds used to open the account, or amounts deposited to cover reasonably anticipated bank charges. See ORPC 1.15-1(b) and OSB Formal Opinion No. 2005-145. For instructions on how to reconcile the IOLTA account, see *A Guide to Setting Up and Using Your Lawyer Trust Account*, available on the PLF Web site, www.osbplf.org.
2. Contact the bank to determine whether there will be any charges associated with closing the account. If a closing fee will be assessed, deposit sufficient funds to cover the closing fee. (You are responsible for this bank charge – do not use client funds to cover this fee. See ORPC 1.15-2(m).)
3. Prepare and send final client bills, if necessary.
4. Disburse funds belonging to you (earned fees, reimbursement for costs advanced) and deposit into your business account.
5. Disburse funds belonging to clients. Send to clients with a duplicate copy of their final bill or prepare cover letters transmitting your checks.
6. For unclaimed trust account funds belonging to clients whose last known address was in Oregon, follow the procedures in the Disposition of Unclaimed Property Act, ORS 98.302-98.436. Note, if the unclaimed funds consist of an uncashed witness fee, or other payments not cashed by a third party, the funds revert to the client and should be reimbursed to the client.

Effective January 1, 2010, unclaimed funds held in lawyer trust accounts must be reported to the Division of State Lands (DSL), but paid over to the Oregon State Bar (OSB) with a copy of the DSL reports. The reporting forms are available on the DSL Web site (<http://www.oregon.gov/dsl>). Forms 1a and 2a must be completed and sent to the DSL with copies of the reports and the unclaimed funds forwarded to the OSB.

Under ORS 98.332, funds held by a fiduciary are deemed abandoned if the owner has not accepted payment of the funds, corresponded in writing about the funds, or otherwise indicated interest in the funds within two years after the funds are payable or distributable to the owner. Funds deemed abandoned as of June 30 of each year are to be reported to the DSL during the month of October of that same year, although earlier reporting may be allowed upon written request.

Questions about abandoned funds can be addressed to Judith Baker at the Oregon Law Foundation, www.oregonlawfoundation.org, (503) 431-6323 or jbaker@osbar.org. (Originally posted at <https://www.osbar.org/resources/abandonedfunds.html>.) See also OSB Formal Opinion No. 2005-48.

If you have unclaimed trust account funds for clients outside Oregon, contact the Division of State Lands in the state where the client last resided.

7. Do not close the account until all outstanding checks have cleared.
8. Shred unused checks and deposit slips once the IOLTA account is closed. This will prevent fraud and protect you from mistakenly using checks and deposit slips from your closed account.

9. Keep the IOLTA check register, client ledgers, bank statements, and other records for at least five years: “Complete records of [trust] account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.” ORPC 1.15-1(a).
10. No rule requires lawyers to update the OSB when an IOLTA account is closed between annual certifications. For more information on annual reporting requirements, see: <https://www.osbar.org/IOLTA>.

IMPORTANT NOTICES

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