



# LAW SOCIETY OF THE NORTHWEST TERRITORIES

## Trust Accounting FAQs

### **Do I have to open a trust account for my firm?**

It depends. If you receive money in trust for clients, that money must be deposited into a trust account (**Rule 128**). But if you do not receive funds from, or for, clients for any reason except as payment for your billed and delivered fees and disbursements, you do not need to maintain a trust account.

### **Do I need to get approval from the Law Society to open a trust account?**

Yes. Before opening a trust account, you must appoint a responsible lawyer (**Rules 114, 117**) and get approval from the Law Society (**Rules 114, 121**). You also need to advise your financial institution that all interest from a pooled trust account must be remitted to the Law Foundation of the Northwest Territories.

### **Is there a limit on the number of trust accounts a firm may have?**

No. The Rules do not limit the number of trust accounts a firm may have. Most firms have one pooled trust account into which retainers and other sums held for clients are to be deposited. Firms may also open separate trust accounts for individual clients. Monthly trust account reconciliations must be done for each trust account held by the firm.

### **Are there any special requirements for opening a trust account?**

Yes. In addition to getting Law Society approval to open a trust account, you must open the account at a financial institution, i.e., a chartered Canadian Schedule 1 bank, credit union or Caisse Populaire and the account must be designated as a trust account in the name of the law firm. You must also direct the financial institution to remit all interest in a pooled trust account to the Law Foundation of the Northwest Territories annually.

### **May I deposit a client's retainer into my general account?**

No. If the client is providing a retainer for fees and/or disbursements for which you have not yet provided a billing, the retainer is trust money and must be deposited into your trust account (**Rules 97, 128**).

### **Can I deposit cash into a trust account?**

Yes, provided the aggregate amount of cash received in connection with a client matter does not exceed \$7500. See **Rule 98** for further details, including exceptions to the limit.

### **How can I withdraw money from a trust account?**

All withdrawals from a trust account must be approved by a lawyer of the firm (**Rule 130(1)**). Before authorizing a withdrawal, you must ensure that the client has sufficient funds in trust and that the trust account has sufficient funds to permit the disbursement. Withdrawals must be by consecutively numbered cheques (**Rule 131(1)**). You may also withdraw funds electronically provided you meet the conditions set out in **Rule 109**.

### **Are there any restrictions on what money may be deposited into my trust account?**

Yes. Only money that you are holding in trust for a client and that is directly related to legal services you or your firm are providing to the client may be deposited in the trust account (**Rules 100(1), 125**).

### **What are my responsibilities with respect to trust accounts?**

You are responsible for all trust money received from a client. This includes the timely deposit of trust money into a trust account; maintaining accounting records, that will allow for the accurate identification of trust money and property; responsibility for all withdrawals or transfers from a trust account; monthly trust account reconciliation; and annual to the Law Society. You may delegate accounting tasks, but you may not delegate responsibility.

### **Why do I have to reconcile the trust account every month?**

A monthly reconciliation of all trust accounts is required by **Rule 107(1)**. If you hold funds in trust for your clients, you have a fiduciary duty to account for that money. This duty requires you to maintain a sufficient balance of funds in your trust bank account to meet all your trust obligations at any given time. The reconciliation process is a safeguard that ensures that any discrepancies and errors are discovered and corrected promptly. The Law Society has developed resources to guide you through the reconciliation process. These resources are available on the Law Society's website.

### **What should I do if I discover a trust shortage?**

Trust shortages must be reported to the Law Society if the deficiency is more than \$2500 and in other circumstances identified in the rules (**Rule 132(1) and (3)**).