IOLTA Statement on New IRS Credit Card Reporting Requirements

The Pennsylvania Interest on Lawyers Trust Account (IOLTA) Board recently issued a statement on new Internal Revenue Service (IRS) credit card reporting requirements and the possible confusion that may develop if an attorney or law firm mistakenly uses the Taxpayer Identification Number (TIN) from the IOLTA account instead of the TIN for the law firm in their credit card processing agreements.

According to IOLTA, effective January 2012, all credit card processors (e.g., LawPay) and third-party payment aggregators (e.g., PayPal) are required to report gross credit card transactions to the IRS on Form 1099-K. In the case of attorneys, the regulation does not make a distinction between credit card transaction deposits to a trust or IOLTA bank account and to an attorney's operating bank account. Form 1099-K is only intended to be “informative,” and the processor should include a merchant industry code on the Form 1099-K that identifies the recipient as a law firm.

“While it is not yet clear, it would be consistent with other IRS requirements that the taxpayer may be required to explain the differences between the law firm's income and the amounts reported on the 1099-K,” said Alfred J. Azen, IOLTA Board executive director. “Trust account credit card deposits would likely have to be explained or reconciled since they may not be reportable income.” Azen also noted that the processor is required to ensure that the law firm's federal tax ID matches the firm name in the IRS records and that the beginning letters of the law firm name on the Form 1099-K match those in the IRS records since there is a limited number of characters on the Form 1099-K for the law firm name.

Also according to IOLTA, effective January 2013, the IRS will impose a 28 percent withholding penalty if the name and TIN do not match the IRS records and some processors have begun charging “TIN-matching fees” or similar fees. All IOLTA accounts have IOLTA’s TIN, not the TIN of the individual law firm. Law firms should exercise care to ensure that the firm’s TIN is used in their credit card processing agreements.

Making a Difference

Christina Fisher, Camp Hill

Christina Fisher, a solo practitioner in Camp Hill, Cumberland County, is the Central Pennsylvania regional manager and Dauphin County coordinator for the PBA Young Lawyers Division-supported “Wills for Heroes” programs. Last year she coordinated 13 events in Dauphin, Cumberland, Adams, Berks and Lebanon counties, which involved more than 260 volunteer attorneys, notaries and witnesses. At those events, nearly 500 documents (wills, living wills and health care and financial powers of attorney) were drafted for first responders and their spouses or significant others. Fisher also trained new “Wills for Heroes” coordinators in Indiana, Berks and Adams counties, and volunteered at events in York, Lancaster and Chester counties.

Why do you participate in pro bono? I love people! I enjoy talking with first responders about their jobs and their families. In addition, I have the opportunity to spend time with dedicated and talented volunteers.

How did you first become involved? I read in the Pennsylvania Bar News that “Wills for Heroes” needed volunteers for an event in Bucks County. Within 10 minutes of arriving at the event, I told the coordinator there that I wanted to be involved with “Wills for Heroes” and asked how I could help.

Have your pro bono cases dealt with legal issues different from your regular practice areas? If so, how did you adapt? Primarily I practice professional licensing defense, small business management and labor law. Preparing wills is a smaller part of my practice. The skills I learned in drafting contracts are useful in drafting wills that are clear and that meet a client’s needs.

What have been the personal rewards? There is nowhere I would rather be on a Saturday than at a “Wills for Heroes” event. My favorite part is seeing a first responder and his or her spouse smile, knowing that everything will be taken care of if something happens. The smile makes all of the work worthwhile.

Public Utility Law Section Honors Harrisburg Lawyer Irwin A. Popowsky

The PBA Public Utility Law Section presented its Christianson Award to Irwin A. “Sonny” Popowsky, Consumer Advocate of Pennsylvania, on May 30 during the Public Utility Bench Bar Conference in Harrisburg.

The award is named in honor of Robert A. Christianson, a former chief administrative law judge for the Public Utility Commission, and recognizes an individual who has made an outstanding contribution to the development, improvement and advancement of the profession of public utility law.

Popowsky has served as the Consumer Advocate of Pennsylvania since 1990 and has worked at the Office of Consumer Advocate since 1979. He has argued utility rate cases before numerous courts, including the U.S. Supreme Court, and has helped shape legislative changes in consumers’ interests.

Popowsky is a graduate of Yale University and the University of Pennsylvania Law School.