

## **Vital information for Wisconsin lawyers who accept credit card payments**

Changes in federal law regarding the reporting of credit card transactions have the potential to negatively impact the credit card trust accounts of Wisconsin lawyers and to potentially lead to ethical violations by lawyers.

Pursuant to the Housing Assistance Tax Act of 2008, credit card processing companies are required to verify and match each merchant's federal tax identification number and his/her legal name with those found on file with the IRS. An **EXACT** match is required. This requirement applies to lawyers and law firms accepting credit card payments as they are considered "merchants."

If the tax identification number and the legal name of the lawyer or law firm that were provided to a credit card processing company are not an exact match with the tax identification number and legal name on file with the IRS, there are serious consequences:

- Beginning January 2013, the IRS will impose a **28% withholding penalty** on all credit card transactions, including those that the lawyer directs to his/her IOLTA credit card trust account.
- If client funds that should be in an **IOLTA credit card trust account** are withheld due to the lawyer's failure to act on this notice and are consequently not available to the client on demand, ethical issues are raised.

Credit card processing companies should have already received information from the IRS if a mismatch has occurred and should have already notified the lawyer or law firm of the problem. However, it is not known if all processing companies have provided such notice.

In addition, Wisconsin lawyers who accept credit card payments for both earned and unearned legal fees and costs should take this opportunity to confirm that they are complying with the requirement to maintain a "**credit card trust account**." [See, SCR 20:1.15(e)(4)h., effective July 1, 2007; amended January 1, 2011.] In Wisconsin, "**credit card trust accounts**" must be IOLTAs.

Steps that Wisconsin lawyers can take now to avoid an ethical violation in 2013:

- Contact the credit card processor to confirm that there is an exact match between the lawyer's/ law firm's federal tax identification number and the lawyer's/law firm's legal name.
- Correct mismatches promptly if informed of one.

Lawyers are encouraged to review the following article, which provides more detailed information regarding the new requirements: <https://www.lawpay.com/news/irs6050w.pdf>

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