

INFORMATION SHEET

S253 INTERMIXING MONEY



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Unpaid disbursements

The handling of Northern Territory Legal Aid Commission (NTLAC) payments presents an ongoing compliance problem in relation to trust accounting obligations. Payments made by NTLAC will generally represent fees and internal cost due to the practice and in some instances the payment may also represent a component for unpaid disbursements. To avoid the possibility of penalty interest, fines and or breaches for intermixing of money; practices are advised to exercise caution and discretion by receiving NTLAC payments in the first instance into their general trust account.

Entrusted funds or practice income?

Law practices raising invoices to NTLAC for stage of matter services and disbursements are to be prudent in receiving these payments into their office account. Payments may only be received into an office account if the following conditions exist and can be verified on request:

1. All legal services provided by the practice have been rendered prior to the invoice date and
2. All disbursements have been paid in full by the practice prior to the date of the invoice, and, the practice holds a document by way of a receipt or a bank statement verifying payment has been presented.

Categories of disbursements

Disbursements can be classified into three categories:

- **Professional disbursement** - those costs incurred by the practice on behalf of a client which are due and payable by the practice and for which the practice is liable. These disbursements relate to a third party such as witnesses, counsel and or professional advisors/experts. Professional disbursements are bound to be paid by the practice should the client not provide funds and are amounts for which the practice will be entitled to any GST credits.
- **Internal administrative disbursements** are viewed as those business expenses which have been itemised on the practice's invoice. A practice which maintains an account with a supplier of services that may or may not be specifically billed as disbursements (e.g. Telstra) is not entitled to be reimbursed for a billed disbursement until the account that includes the particular client's disbursement has been paid. However this category does not include those administrative costs /disbursements which have been calculated as component of an hourly rate.
- **Non-professional disbursements** can be viewed as those costs due but not bound to be paid by the practice and may include lodgement fees, taxes or duties.

NTLAC payments to be viewed initially as entrusted funds

Any amount, either proportional or in full, presented in a stage of matter invoice which does not meet conditions 1), 2) or 3) is considered entrusted monies and the payments is to be received into the trust account. To avoid the possibility of penalty interest, fines and or breaches for intermixing of money; practices are advised to exercise caution and discretion by providing the NTLAC with their trust account details for all stage of matter payments.

Receipting stage of matter payments

When receipting NTLAC payments into trust, the payment is viewed as entrusted funds received from a third party for and on behalf of a client. The receipts of such payments are to be made in the name of the Legal Aid Commission with the relevant matter and client referenced.

Transfers to the office account

A practice is not entitled to reimbursement for disbursements until the liability has been fully extinguished. A cheque drawn on a practitioner's office account is not discharged until it is successfully presented.

Once the NTLAC payment has cleared practices have the option of:

- Professional or non-professional (third party) disbursement can be made via a trust cheques or,
- Actioning several transfers as and when the values meet one or more of the above standards or,
- Waiting until all values billed on the invoice meet the above standard/s.