



Australian Government

Department of Education, Employment and Workplace Relations

BSALF401A Maintain trust accounts

Release: 1

Modification History

Not Available

INTRODUCTION

This Unit covers the maintenance of trust monies related to specific files, under the instruction of a legal practitioner.

Note: It may be illegal for a person without a current legal practice certificate to provide legal advice, to sign off on legal work and receive trust account monies. The use of trust account monies is subject to legislative control. Accordingly work carried out in regard to trust account monies occurs under the instruction of a legal practitioner and is of a complex but specified nature. Therefore the position of this unit at AQF Level 4 is in relation to the level of responsibility and technical complexity required in the tasks involved.

This unit can be assessed alone or in combination with other units making up a job role.

Element	Performance Criteria
Check that trust funds are adequate	<ul style="list-style-type: none">• Relevant sources are checked for information regarding disbursements and costs• Estimated disbursements and costs are calculated and reconciled with available trust funds• Instructing legal practitioner is notified where there are inadequate available funds• Client is notified that further funds are required, where necessary, according to a firm's policies and procedures
Draw cheque/s against the trust account	<ul style="list-style-type: none">• Appropriate requisition form is completed• Authorisation is gained from instructing legal practitioner according to a firm's policies and procedures• Cheque/s are inspected for accurate amount and correct account source• Instructing legal practitioner is organised to verify and sign cheques• Accurate records are kept of all file related disbursements and costs
Prepare documentation upon completion of legal matter	<ul style="list-style-type: none">• Relevant information/documentation from file is collated• Monies remaining in trust account are reconciled• Discrepancies/irregularities are investigated promptly and appropriate follow up action is taken

RANGE OF VARIABLES

Relevant information sources may include:

- information from open file
- monies received into the trust account
- transactions on the trust account
- petty cash vouchers
- petty cash book
- purchase requisitions and orders
- invoices and receipts
- delivery dockets
- credit notes
- statements
- cheques
- deposit books
- bank statements

Disbursements may include:

- filing fees
- photocopying
- postage
- cost of duty stamps
- court costs
- telephone charges

Trust account procedures may include:

- arrangements with banks to prevent the following deductions from trust accounts
 - FID Tax
 - BAD Tax
 - Bank charges
- reporting to state law society/institute as required by law

Methods for maintaining trust accounts may include:

- hard copy
- standard books of account
- specialised software

Details to be completed on requisition form include:

- file/matter number
- amount
- description of reason for cheque or receipt
- authorisation/signatures of designated person

Recording mechanisms/systems

- be paper-based

may:

- be electronic
- vary according to a firm's accounting system
- vary according to bank requirements

A firm's accounting system may:

- be paper-based
 - cash books
 - journals
- be electronic
 - commercial software package
 - customised software package
- vary according to a firm's accounting system
- vary according to bank requirements

Financial documentation for clients may include:

- statement of accounts
- calculation of fees
- copies of receipts

A firm's policies and procedures may include:

- bank procedures and policies
- notifying client when further funds are required
- keeping records of disbursements
- following up discrepancies and irregularities
- information sources
- accessing accounting system
- security/confidentiality/privacy procedures
- verifying and authorising information
- recording information
- handling monies
- liaising with financial institutions
- legal bookkeeping

The area of law may include*:

- commercial law
- corporate law
- criminal law
- family law
- industrial relations/employment law
- property law
- tax law
- litigation
- wills and probate

- * These are nine common areas of law. The area of law is not restricted to this list; other areas of law may be applicable.

Legislative requirements may relate to:

- relevant State/Territory/Commonwealth legislation
- Governing legal practice Acts in each State/Territory
- the client and a firm (eg. Consumer Credit Code, Privacy Act, secrecy laws, Codes of Practice, common law and Statutory Duties of Care involving financial relationships)
- the area of law
- schedules of fees and duties payable
- establishing a trust account
- taxation and banking requirements
- tort, equity and statute law
- Australian Taxation Office regulations

Relevant State/Territory/Commonwealth legislation may include:

- Trade Practices Act
- Small Debts Act
- Bills of Exchange Act
- Financial Transactions Report Act
- various state's conduct acts, eg. Legal Practice Act

EVIDENCE GUIDE

- Critical aspects:
- understanding of scope of own responsibility is demonstrated
 - an understanding of trust accounting principles and practices within the limits of the employee's responsibilities is demonstrated
 - an understanding of a firm's trust and general accounting procedures is demonstrated
 - correct usage of different types of documents is demonstrated
 - documentation is filled out correctly and presented to instructing legal practitioner within

agreed timelines

- records of disbursements are accurate and up-to-date, according to a firm's policies and procedures
- • evidence of knowledge of the type of discrepancies and irregularities which could arise and standard resolutions
- discrepancies and irregularities are resolved within scope of own responsibility and those outside of own responsibility are referred immediately to instructing legal practitioner, eg. files with inadequate funds
- calculations and reconciliations are checked for accuracy
- numerical information is checked
- contact with client regarding inadequacy of funds is handled sensitively and according to a firm's policies and procedures
- legal actions, legislative requirements and invoicing procedures are explained to client in simple language, where appropriate
- check for written authorisation from client and instructing legal practitioner is obtained when moving trust account money into interest bearing account
- documentation prepared at the completion of a legal matter is complete and accurate
- file/matter number is attached to all relevant documentation and such documentation is filed appropriately
- a firm's trust accounting procedures, legislative and regulatory requirements are complied with
- non-disclosable information is not communicated and where any doubt exists as to the information's status it is not disclosed
- activities, actions and outcomes are documented and time is recorded
- honesty and integrity are demonstrated in all financial dealings
- all work is conducted within accepted codes of conduct including those relating to: maintaining confidentiality, use of company property, duty of care, ethical behaviours, privacy, non-discriminatory practice, conflict of interests and compliance with reasonable direction
- reports in relation to trust monies are compiled and reviewed in line with firm's policies and procedures

Resource implications:	<p>The assessor must have access to appropriate documentation and resources normally found in the work environment and required to allow the job or task to be properly performed. These may include:</p> <ul style="list-style-type: none">• appropriate legislation and regulations relevant to assisting clients, maintaining business accounts, maintaining trust accounts and transferring trust monies• workplace manuals and reference materials such as company policy, procedural manuals and checklists• appropriate technology such as computers with relevant software calculators, adding machines and imprinters
Consistency in performance:	<p>This unit of competency will require evidence to be collected across a range of events, eg. dealing with trust account requirements, and over a period of time to ensure that situational variables are consistently achieved.</p>
Context of assessment:	<p>Evidence of competency can be met in different situations, including:</p> <ul style="list-style-type: none">• on the job assessment• off the job assessment• placement in an enterprise• participation in a New Apprenticeship (traineeship) arrangement• use of a Practice Firm or simulated work environment• flexible delivery methods used by training providers to cater for distance education students• Recognition of Prior Learning, Recognition of Current Competencies (in skill areas where there has been no significant change to work practice in recent times). <p>Evidence gathering methods may include:</p> <ul style="list-style-type: none">• demonstration• questioning• workplace performance• role-play• simulation• projects/assignments• written tests• skills portfolio• third party reports
Underpinning knowledge and	<p>Knowledge</p>

skills

- a firm's general and trust accounting policies, procedures and systems
- bank procedures and policies/requirements
- relevant current legislation (see Range of Variables)
- legal terminology in relation to trust accounting and the matter at hand
- procedures for authorising cheques against the trust account
- preparing cheques
- security/confidentiality/privacy
- Australian Standards Association Code of Practice and Accounting Standards
- Australian Accounting and Auditing Standards
- Australian Taxation Office regulations
- establishing a trust account
- transferring assets
- statutory charges, taxes, and other fees applicable to institutions

Skills

- literacy: follows written or verbal sequenced instructions about a complex legal matter
- numeracy: knowledge of mathematical procedures in relation to trust accounting, financial calculations and bookkeeping; interprets, compares, calculates and checks for accuracy with money in legal context
- interpersonal skills in relation to co-workers and clients
- use of accounting records system
- communication: listens to clear instructions; questions to clarify information

KEY COMPETENCIES

Utilisation of the Key Competencies required in the performance of this unit

Communicating ideas and information	Collecting, analysing and organising information	Planning and organising activities	Working with others in a team	Using mathematical ideas and techniques	Solving problems	Using technology
1	3	1	2	2	2	2

Performance Levels:

Level 1	Level 2	Level 3
<ul style="list-style-type: none"> carries out established processes makes judgements of quality using given criteria 	<ul style="list-style-type: none"> manages processes selects the criteria for the evaluation process 	<ul style="list-style-type: none"> establishes principles and processes evaluates and reshapes processes establishes criteria for evaluation of processes