

Trust Account Withdrawals

Cheque or Electronic Funds Transfer

Regulations 44 & 45 provide for withdrawals from the general trust account by way of a cheque or Electronic Funds Transfer (EFT).

Section 217 of the Act specifically prohibits cash withdrawals, withdrawals or transfers from an ATM or telephone withdrawals or transfers.

The cheque butt/requisition/EFT authorisation is the source document to record payments from the trust account.

Withdrawal by cheque

The Regulations require that cheques:

- a) contain the name of the law practice or business name and the expression "law practice trust account" or "law practice trust a/c" (this does not apply to an account opened in WA before 1 March 2009);
- b) must be payable to a specific person and **not drawn to bearer or cash**;
- c) must be signed by an "authorised" principal of the law practice or in their absence an "authorised person(s)"; and
- d) must be crossed "**not negotiable**".

Cheques should be drawn in numeric and date order to ensure that all cheques are accounted for. The law practice should also ensure that a written record of payment is kept for both computer and manual withdrawals and the written record is filed in the order that the cheques were issued.

Written record for cheques to disclose:

- a) date the cheque is drawn;
- b) number of the cheque;
- c) payee (if payable to an ADI, the name of the ADI and the name of the person receiving the benefit of the payment);
- d) the ledger account to be debited (**Account Name & Matter Description**);
- e) name of the person on whose behalf the cheque was drawn: (**Account Name**);
- f) matter reference; (**Matter Reference**);
- g) reason (or purpose) for the payment; and
- h) the amount.

For law practices using a computer printed cheque facility, a cheque requisition is recommended.

*ADI: Approved Authorised Deposit Taking Institution

Withdrawal by Electronic Funds Transfer

The Regulations require that electronic funds transfers are to be effected by or under the direction or with the authority of an "authorised" principal or in their absence an authorised person(s).

The law practice must ensure that a written record evidencing the electronic funds transfer is kept for both computer and manual records. The written record must be kept in the order in which the transfers were effected. The Legal Practice Board recommends the written record should be numbered consecutively to allow the payment to be traced from the approved ADI's statements to the cash payments book.

Written record for EFT to disclose:

- a) date of the transfer;
- b) reference number or other means of identifying the transfer;
- c) name and number of the account to which the money was transferred including BSB number;
- d) name of the person to whom the payment was made or if paid to an ADI the name of the ADI or BSB number of the ADI and the name of the person receiving the benefit of the payment;
- e) name of the person on whose behalf the amount is transferred (**Account Name**);
- f) matter reference (**Matter Reference**);
- g) details identifying the ledger account debited (**Account Name & Matter Description**);
- h) reason (or purpose) for the transfer; and
- i) the amount transferred.

Note: An EFT reference (internally generated) in consecutive sequence should be created by the law practice and entered in the description field in the electronic funds transfer window of the internet banking facility. This reference should also be recorded in the payments cashbook and ledgers, similar to the cheque number. The source record should then be filed in the EFT reference number order.

This is to ensure that the specific payment in the ADI statement can be referred back to the source record and other records. The document evidencing the transfer (produced by the ADI on screen) should be printed and attached to the EFT requisition.

Contact

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