



## TRUST ACCOUNTING

### Guidelines for Wholesalers

One of the purposes of the *Travel Industry Act, 2002* is the protection of customer monies received for the purchase of travel services, including travel services to be provided by an air carrier.

"Trust Accounting" recognizes this purpose by considering that all customer monies received for travel services are deemed to be held in trust to be used only for the purchase of the travel services contracted for by the customer when the booking is accepted and the payment received. Any monies in a trust account are considered to not belong to the travel agent or wholesaler. These monies are received "with a direction", which by the nature of the transaction need not be specific, since a direction is deemed to exist when the customer books a specific flight or tour package, and the agency or wholesaler shall recognize that money was paid to him for an express purpose and shall pay it out only for the purpose intended in that direction. Use of such "trust funds" for any other purpose may be considered to be "theft" under the Criminal Code of Canada, R.S., c. C-34, Section 292.

Registrants must carry out "Macro Trust" accounting. TICO recognizes that it may be onerous for registrants to track consumer monies on a daily basis, file by file. However, Registrants must ensure that at all times there is sufficient money to cover the customer obligations in respect of monies received from consumers. The Trust Account should be reconciled on a monthly basis and the registrant should determine that they have sufficient funds in the Account to cover all obligations. If there is a shortfall in the Trust Account registrants must immediately correct the shortfall as soon as they become aware of any shortfall.

The following comments and procedures are provided to assist in setting up and maintaining Trust Accounting. They should help you to understand the requirements, in recording transactions by customer booking, that is, the receipts, disbursements, and related profit or loss on that booking. The accounting and banking records are complementary to each other and both must be maintained. It is sufficient for the registrant to have the ability to track consumer payments on a file by file basis, but not actually track the funds on a daily basis as long as the consumer funds are reconciled at least monthly.

The accounting records also will be used to determine the "Customer Deposit Position" or to prepare a reconciliation, (total receipts from customers for travel services sold compared with cash in banks plus payments for the related travel services to be provided)

These records will also provide the information that will be used to determine the "profit or surplus" portion, if any, of the receipts from customers that may be transferred to the General Bank Account for payments for operating and/or any other overhead expenses.

To maintain effective and meaningful information, the accounting records must be kept up-to-date, and must be reconciled (compared with "Trust Account" bank statements on a regular basis, and the differences listed and corrections made of any errors) at least monthly.

Definitions:

Profit - Profit is defined in these guidelines to mean the surplus funds remaining in the trust account after the customer obligations have been reconciled to the balance in the trust accounts. With the concept of Macro Trust accounting, the profit is not necessarily the profit on each client file, but rather the total funds that are surplus to the current customer funds on hand. In calculating the surplus the following deductions are allowed:

1. Agent commissions that relate to consumer funds received
2. Supplier deposits that relate to consumer funds received
3. Earned cancellation fees
4. Credit card fees

## **TRUST ACCOUNTS**

The process for operating Trust Accounts is as follows:

### **BANKING**

- 1) The Registrant must establish at least two bank accounts in Ontario in a Canadian chartered bank or in another institution authorized to accept deposits. The accounts would be designated as a General Account and a Trust Account. The Registrar must be notified of the location and account numbers.
- 2) The "Trust" Bank Account or Accounts (if more than one account, it must be approved by the Registrar) will be used for the deposit of all customer receipts received for travel services and the withdrawals for travel services. These transactions must be made in accordance with the Regulation under the *Travel Industry Act, 2002* and as set out in the "Terms and Conditions of Registration" issued by the Registrar and agreed upon by you.
- 3) The bank must acknowledge in writing to TICO that the Trust Account has been designated as a *Travel Industry Act* trust account. The name on this Trust bank account should contain the words "*Travel Industry Act Trust Account*" as well as the registered name of the Registrant. Sometimes it is difficult for the Bank to fit,

"Travel Industry Act Trust Account" on the bank statement, therefore at a minimum the Trust Account should indicate that it is a Trust Account. For example:

- XYZ Travel Limited - Travel Industry Act Trust Account

- 4) Any investments held that form a part of the Trust Account must also be designated as the "Travel Industry Act Trust Account".
- 5) Payments made out of the Trust account must be restricted to:
  - those paying for travel services purchased on behalf of the customer who has paid for an accepted booking.
  - refunds to customers;
  - transfer of the profit or surplus component to the General Account to be used to cover operating expenses. The transfer of the profit or surplus may be made only after receipt of the full payment from the customer and at least one of the following conditions exists:
    - 1) All suppliers of travel services for that booking have been paid
    - 2) commencement of travel by the customer
    - 3) release of travel documents to the customer after suppliers have been paid
  - transfer of consumer funds to another account in order to facilitate a payment to a travel supplier as long as consumer funds relate to the supplier payment and the supplier payment is made within 24 hours of the transfer.
- 6) The trust bank account may not be used to make payments for operating costs such as salaries and wages, rent, advertising, telephone or other overhead costs. However, payments related to the service of the trust account, such as bank service fees, wire transfer charges, etc, may be made out of the trust account as long as there are surplus funds in the account to cover these charges.
- 7) Payment must be received from the customer before a payment can be made from the trust bank account for the travel services purchased for that booking. Payments from the trust account on behalf of a customer may not in any case exceed the total amount held in the trust account for that customer, unless they are being paid from surplus trust funds..

- 8) Payment of Commissions to retailers from the Trust Account before Travel has occurred is allowable as long as the full payment has been received from the consumer or retailer for travel services.
- 9) Receipts in the trust account may not be withdrawn to purchase travel services not sold, i.e. "risk airline seats", nor to pay for services for other customers who have not yet paid unless they are being paid from the surplus funds.
- 10) If payments are made to an airline for charter flights on a rotation basis and the consumers return travel has not yet been paid to the supplier, the registrant must maintain sufficient funds in the trust account to cover the consumers return air portion on legs that extend beyond three weeks.
- 11) Calculation of Prepaid services to suppliers. Many times registrants prepay suppliers such as airlines or hotels with deposits. These amounts can be included as a prepayment in the Trust reconciliation, as long as they can be specifically identified as being for the travel services that the registrant is obligated to pay on behalf of the consumer. Under no circumstances can prepayments to suppliers be made from the trust account unless the payment directly relates to monies received from the consumer, or unless it is being paid from Surplus funds. It is the registrant's responsibility to prove that the prepayments relate to consumer funds received.

## **RECORD KEEPING / ACCOUNTING**

- 1) An accounting record of booking contracts by booking must be maintained. This record must be in sufficient detail that there is a monetary record of all receipts and payments relating to that particular booking.
- 2) Periodically, a calculation must be made of the "profit or surplus component" remaining in the Trust Account for travel sales that has been fully paid for by the customer. This calculation will show the amount paid by each customer and the amount paid out for travel services on their behalf. The difference between these two amounts represents the "profit component". A transfer of this "profit component" may be made from the Trust Account to the General Operating Account(s) of the Registrant, but only after full payment has been received from the customer ( BANKING (2) and (5) above).
- 3) Clear and identifiable records should be kept of any prepayments to suppliers that are to be included in the Trust Reconciliation. The prepayments should show how they relate to the customers travel.
- 4) Records shall be kept of all deposits and withdrawals from these Trust Accounts for inspection from time to time by an Inspector appointed by the Travel Registrar.

- 5) If the registrant has a system in place to ensure that the balance in the Trust Account is maintained at a level at least equal to or greater than the total of all payments received from customers for future travel less payments made on their behalf for travel services, the Registrant may elect to leave a "profit component" in the Trust Account and transfer to the General Account only sufficient funds to be used for operating needs of the business as are required. These transfers must not at any time infringe on the "trust fund" requirement.
- 6) A customer deposit position must be prepared at least monthly, as follows:

a) Customer Deposits	(A)	\$ 00,000.00	- Total receipts from customers who have not yet travelled.
Covered by: Bank balance	(B)	\$ 00,000.00	- Bank balance as shown in accounting records. This record takes into account any cheques that have been issued but not yet cashed. Includes any investments that may be designated as a Travel Industry Act Trust Investment.
Prepaid travel	(C)	<u>\$ 00,000.00</u>	- Partial or full payments made to suppliers for future travel related to current bookings by customers.
	(D) (B+C)	<u>\$ 00,000.00</u>	
Surplus/Deficiency	(E) (D-A)	<u>\$(00,000.00)</u>	- If the Account is handled properly, there will never be a deficiency shown in the reconciliation.

(D) should always be greater than (A)

A deficiency would indicate that funds have been improperly paid out. For example: cash received from one customer has been used to pay for the travel for another customer, or there have been payments to suppliers to cover "risk" obligations.