



# TRUST ACCOUNTING GUIDELINES

## Introduction

The Travel Industry Council of Ontario (TICO) is responsible for administering the provincial legislation governing the travel industry in Ontario, the Travel Industry Act, 2002 (“the Act”) and Ontario Regulation 26/05 (“the Regulation”). TICO’s mandate is to ensure that anyone involved with selling travel in Ontario is doing so in accordance with the Act.

One of the purposes of the Act is the protection of customer monies received for the purchase of travel services.

**"Trust Accounting"** recognizes this purpose by deeming all customer monies received for travel services to be **held in trust (“Trust Funds”)**. **Trust Funds can be used only for the purchase of the travel services contracted for by the customer.**

Monies in a Trust Account do **not** belong to the travel agent or wholesaler (“the Registrant”). 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 travel service. The Registrant shall recognize that money was paid to it for an express purpose and shall disburse the Trust Funds only for the purpose intended in that direction. Use of such Trust Funds for any other purpose is a breach of the Act and the Regulation and may be considered to be "theft" under the Criminal Code of Canada, R.S., c. C-34, Sec. 322.

## Purpose

These Guidelines are provided as a tool to assist in setting up and maintaining a Travel Industry Act Trust Account (“Trust Account”).

## Definitions and Explanatory Terms

**Audit Trail** – A step by step record leading to and from source documents which is maintained in order to trace customer booking from initial receipt of funds to supplier payment and/or provision of services. Audit trail means that, for any customer booking, it is possible to trace it to a specific invoice, bank deposit and supplier payment and/or expenses related to the provision of travel services. It requires that clear and identifiable backup documentation is maintained to adequately support transactions recorded in accounting and banking records.

Bank Reconciliation – Comparison of the bank balance per the general ledger versus the bank statement and accounting for any variances (i.e. outstanding cheques and/or outstanding deposits).

Cash Receipts – Funds received from customers, which include receipts by cash, cheque, electronic fund transfer, direct deposit and credit card or debit card receipt processed through the Registrant's merchant account. Cash Receipts do not include consumers' credit card payments where the credit card has been charged directly by the supplier's merchant facility.

Customer Deposits – Also called Customer Funds, refer to Cash Receipts for travel services received by the Registrant.

Customer Deposits Liability – Outstanding Customer Deposits on hand at any given point in time, which have been received from customers and have not yet been passed on to suppliers or for which the services have not been fully preformed. Customer Deposits Liability must be calculated at the time of preparing the Trust Reconciliation.

Gross Ontario Sales – Sales for the purpose of calculating contributions to the Ontario Travel Industry Compensation Fund - Include all sales to customers for any form of accommodation and/or transportation, billed individually or in a package (except for HST). Travel insurance is included as are Registrants' service fees; however, travel merchandise and override commissions are excluded. Method of payment is not relevant when calculating what is included.

Travel Services – Transportation or sleeping accommodation for the use of a traveler, tourist or sightseer or other services combined with that transportation or sleeping accommodation – sec. 1 of the Act.

Trust Account – An account maintained by the Registrant and designated as a "Travel Industry Act Trust Account". The Trust Account shall be used to directly deposit Customer Funds related to Gross Ontario Sales and no other funds may be deposited into the Trust Account.

Trust Assets – Reconciled Trust Account bank balance plus Trust Prepaid balance.

Trust Funds – Payments for travel services given to the Registrant with specific direction and cannot be used for any other purpose.

Trust Deficiency/Trust Deficit – It represents a shortage in the Trust Account resulting from the Customer Deposits Liability exceeding the Trust Assets balance at any given point in time. A Trust Deficiency means that the amount of the Trust Assets is not sufficient to cover the Customer Deposits Liability balance. Trust Deficiency is a result of misuse of Trust Funds, which is a breach of section 27 of the Regulation. The Trust Reconciliation should never result in a deficit position.

Trust Prepaid – **An optional method** of disclosing supplier payments in a Trust Reconciliation for a given customer booking for which there is a corresponding Customer Deposit included in the Customer Deposits Liability balance [*for example, a \$500 payment to the supplier for the related deposit of \$1,000 may be recorded as a Trust Prepaid – the corresponding customer*]

*deposits liability would be grossed up and recorded at \$1,000 (not \$500) – therefore the Trust Prepaid of \$500 reduces (or nets) the \$1,000 liability]. Supplier payments unrelated to Customer Deposits received are excluded from the Trust Reconciliation and therefore, may not be included in the Trust Prepaid balance. If Registrants choose to pay suppliers on behalf of their customers in advance of receiving money from the customer (i.e. extend credit), they may only do so with the Trust Surplus and this would not be considered Trust Prepaid.*

Calculating the amount of Trust Prepaid balance is often a useful method of accounting for Customer Deposits for Registrants who are tour operators; however, this is not mandatory. If the Registrant has the ability to account for activities on a customer by customer basis thus arriving at an accurate customer deposits liability balance net of supplier payments related to each customer, then the Trust Prepaid balance does not have to be included as a component of the trust reconciliation.

Trust Reconciliation – Comparison of the Customer Deposits Liability balance to the Trust Assets balance. Customer Deposits Liability may never exceed the Trust Asset balance. *Note: Trust Reconciliation is not the same as Bank Reconciliation.*

Trust Surplus – Excess of Trust Assets over Customer Deposits Liability. It is the amount that may be transferred to the General Account. Trust Surplus may only be transferred after receiving full payment from the customer and the supplier has been paid in full or travel services have been provided in full (i.e. the customer has returned from the trip).

Wholesaler Gross Ontario Sales – All sales (**as defined in Gross Ontario Sales**) to registered retail agencies in Ontario (HST is not included).

### **General Requirements applicable to the Travel Industry Trust Account**

- The Registrant must establish and maintain at least two bank accounts in Ontario. The accounts must be held in a bank listed in Schedule I or II to the *Bank Act (Canada)*, a loan or a trust corporation or a credit union as defined in the *Credit Unions and Caisses Populaires Act, 1994*. The accounts should be designated as a “**General Account**” and a “**Travel Industry Act Trust Account**”. The Registrar must be notified of the bank location and bank account numbers (sec. 26 of the Regulation).
- The Registrant shall notify the registrar at least five days in advance before a change takes place in the name or number of an account or in the financial institution in which the account is maintained (sec. 17 of the Regulation).
- The Trust Account or Accounts (*if more than one account, it must be approved by the Registrar*) will be used for direct deposit of all customer receipts received for travel services and the payments for those travel services. A Trust Declaration must be signed by the Registrant acknowledging that they understand the requirements of section 27 and will maintain the Trust Account accordingly. A Trust Declaration must be provided for any new Trust Account approved by the Registrar.
- 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 Account shall

contain the words "*Travel Industry Act Trust Account*" as well as the registered name of the Registrant). A sample bank letter may be obtained from TICO.

### **Banking, Accounting and Recordkeeping**

Banking, accounting and recordkeeping are complementary to each other and must be maintained by Registrants.

- It is each Registrant's obligation to maintain business records, including records in relation to the Trust Account, at the registered place of business for 6 years. Records required in relation to a Registrant's Trust Account include: records of all deposits and withdrawals from the Trust Account(s). This includes but is not limited to: invoices, bank statements, bank deposits slips, supplier statements, visa statements and a sales journal (sec. 29 of the Regulation).
- The business records, which include banking and accounting records, will be used to determine the Customer Deposit Liability balance and to prepare the Trust Reconciliation.
- To maintain effective and meaningful information, the records **must be kept up-to-date**, and it is recommended that a Bank Reconciliation be prepared on a regular basis and at a minimum, at the time when the Trust Reconciliation is prepared. This will increase the accuracy of the Trust Reconciliation as the Registrant will be able to appropriately account for any outstanding cheques and/or outstanding deposits.
- An accounting record of all booking contracts must be maintained by booking reference. This record must be in sufficient detail to provide a monetary record of all receipts and payments relating to that particular booking. Customer Funds received should be cross-referenced to the specific invoice identifying the booking for which the payment was made. The Audit Trail should be sufficient so that deposits can be clearly traced to the corresponding backup documentation.
- A statement, invoice or receipt shall promptly be issued for all Gross Ontario Sales. Invoices must be issued in a sequential order or assigned a unique identifier (sec. 38 of the Regulation).
- If the Registrant accepts credit card or debit card receipts (where the Registrant is the merchant) or direct deposits, the Registrant must have a system in place in order to identify these transactions on a booking by booking basis and to maintain a proper Audit Trail.
- Clear and Identifiable Records should be kept of any prepayments to suppliers that are to be included in the Trust Reconciliation. The prepayments must relate to the Customer Deposit Liability. Sufficient and appropriate Audit Trail must be kept in order to link (or match) the Trust Prepaid with the Customer Deposits Liability.

## **Receipts and Disbursements**

- All Customer Funds received related to Gross Ontario Sales, regardless of the method of payment used by the customer **must be deposited directly to the Trust Account** within 2 banking days of receiving it.
- Only Customer Funds related to Gross Ontario Sales may be deposited to the Trust Account. Other funds such as shareholder injections and commissions should not be deposited to the Trust Account; instead, they should be deposited to the General Account.
- Pursuant to section 27 of the Regulation, Trust Funds shall **only** be disbursed for the following **specific** purposes:
  - To make payments to suppliers of travel services for which the money was received;
  - To make refunds to customers; or
  - After the suppliers of travel services have been paid in full, to calculate and transfer any remaining Trust Surplus to the General Account.
- **Note that the transfer of Trust Surplus may only be made after receiving full payment from the customer and the supplier has been paid in full or travel services have been provided in full (i.e. the customer has returned from the trip).**
- The Trust 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 and merchant fees, may be made out of the Trust Account as long as there is sufficient Trust Surplus to cover these charges. If the banking institution allows, it is recommended that the bank charges related to the Trust Account be paid directly from the General Account.
- If a payment has not been received from the customer before a payment to the supplier must be made, then only the Trust Surplus may be used to pay for the customer on their behalf. Alternatively, the amount can be paid from the General Account and the funds subsequently received from the customer must be deposited directly to the Trust Account and may be subsequently transferred to the General Account as Trust Surplus.
- Payments from the Trust Account on behalf of a customer may not in any case exceed the total amount of customer funds held in the Trust Account for that customer, unless there is enough Trust Surplus to cover the excess. Similarly, receipts in the Trust Account may not be withdrawn to purchase travel services not sold, i.e. "risk airline seats", or to pay for services for other customers who have not yet paid.
- If payments are made to the airline for charter flights on a rotational 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.
- **Calculation of Trust Prepaid.** It is common for a Registrant to prepay suppliers, such as

airlines and/or hotels. These amounts can be disclosed 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 and the Registrant has received the money from the consumer. Under no circumstances can prepayment to suppliers be made from the Trust Account unless the payment directly relates to monies received from the customer. It is the Registrant's responsibility to prove that the Trust Prepaid can be matched with the Customer Funds.

Note: Payments to suppliers can be made using the Trust Surplus monies, however, these payments would not be considered Trust Prepaid and cannot therefore be recorded as a Trust Asset in the Trust Reconciliation.

- When funds are transferred from the Trust Account of a Registrant's Ontario branch to its main office, the money may only be deposited to the Trust Account of the main office located in Ontario.

### **Trust Reconciliation (see sample Trust Reconciliation on Page 7)**

- A Trust Reconciliation is prepared in order to determine the amount of Trust Surplus remaining in the Trust Account. This calculation shows the amount of Customer Deposits Liability compared to the Trust Assets. The difference between these two amounts represents the Trust Surplus. If negative, that is, if the amount of Trust Assets is lower than the Customer Deposits Liability balance, then this represents a Trust Deficiency – this should never be the case. Trust Surplus may only be recognized after full payment has been received from the customer and the supplier has been paid in full or service to the customer has been provided in full (i.e. the customer has returned from their trip).
- It is recommended to prepare monthly Trust Reconciliations; however, the Trust Reconciliation is required to be prepared at a minimum when a Registrant wishes to make a transfer from the Trust Account to the General Account. In order to maintain the integrity of the Trust, the funds held in the Trust Account must be identifiable by maintaining sufficient Audit Trail for both customer receipts and supplier payments.
- Only Trust Surplus may be transferred to the General Account.
- IATA BSP payments for which funds have been received from consumers that have not yet been withdrawn by IATA BSP as of the date of the Trust Reconciliation must be included in the reconciliation as a Customer Deposits Liability.
- Monies received and held related to sale of gift certificates/gift cards or issuing credit notes must be included in the reconciliation as a Customer Deposits Liability.
- No money should ever be transferred as Trust Surplus to the General Account unless a Trust Reconciliation has been prepared.

### **Sample Reconciliation – Calculation of Trust Surplus**

A Trust Reconciliation position must be prepared on a regular basis and at a minimum when the Trust Surplus is transferred from the Trust Account to the General Account, as follows:

Customer Deposits Liability	(A)		\$ 00,000.00	- Total receipts from customers whose funds have not yet been passed to suppliers (Alternatively, grossed-up for the amounts recorded in the Trust Prepaid, if any)
<i>Covered by:</i> Trust Account Balance	(B)		\$ 00,000.00	- Reconciled Trust Account Bank balance as per the accounting records
Trust Prepaid (If applicable)	(C)		<u>\$ 00,000.00</u>	- Partial or full payments made to suppliers for future travel related to current bookings by customers. (Only for those customers who are included in Customer Deposits Liability figure (A) above)
	(D)	(B+C)	<u>\$ 00,000.00</u>	Total Trust Asset
Surplus/(Deficiency)	(E)	(D-A)	<u>\$ 00,000.00</u>	(D) should always be greater than (A)

### **Trust Accounting Disclosure Requirements related to Financial Statement Filing**

- Any financial statements submitted to TICO must also disclose the Customer Deposits Liability and the Trust Assets balance. This information can either be disclosed on the balance sheet or in the notes to the financial statements (sec. 22 of the Regulation).
- If the disclosure is on the balance sheet, then the assets section should include the Trust Account bank balance and the Trust Prepaid (if applicable), disclosed as separate line items. The Customer Deposits Liability balance at the balance sheet date should be disclosed in the liabilities section of the balance sheet.
- Even if there are no Customer Deposits on hand, a nil balance must be disclosed. It is the Registrant's responsibility to ensure this information is properly disclosed in the Financial Statements.

## **Frequently Asked Questions**

**Q. Can I use Trust Account funds to prepay suppliers?**

A. Only Trust Surplus may be used to prepay suppliers. Preparing a Trust Reconciliation will determine whether you have enough Trust Surplus to prepay suppliers. If there is no Trust Surplus in the Trust Account and the consumer has not yet paid, you must use money in the General Account to prepay suppliers.

**Q. Where should the commission received from suppliers be deposited?**

A. Commission from suppliers should be deposited to the general account.

**Q. Do payments received from consumers for travel insurance have to be deposited to the Trust Account?**

A. Payments for travel insurance, which was purchased in combination with other travel services, received directly from consumers must be deposited to the Trust Account. Travel insurance sales are included in the Gross Ontario Sales for calculating contributions to the Compensation Fund.

**Q. Should only Customer Funds received in the month, for which the Trust Reconciliation is being prepared, be included in the Trust Reconciliation?**

A. The Customer Deposits listing should be a running total as the liability to the customer whose money has been received is not extinguished until the supplier is fully paid or services are fully provided. Therefore, the Trust Reconciliation must include a cumulative listing of Customer Deposits received but not yet paid to suppliers even if the funds were received in previous periods.

**Q. Can I use the Trust Account to deposit funds other than travel related customer funds?**

A. The Trust Account may only be used to deposit travel related customer funds.

**Q. Can I be exempt from following Trust Accounting?**

A. The Regulation allows Registrants to provide security in lieu of Trust Accounting. The security provided must be equal to or greater than one-sixth of cash sales and takes the form of a letter of credit or bank draft (sec. 28 of the Regulation).

**Q. What is included in the Gross Ontario Sales?**

A. Gross Ontario Sales consist of total amounts invoiced to consumers, including taxes (except for HST). Travel Insurance, which was purchased in combination with other travel services and service fees are also included as part of Gross Ontario Sales. Method of payment by customer is not relevant when calculating what is included.

Wholesale Gross Ontario Sales include all sales to registered retail agencies in Ontario (except for HST).

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