

THEORY QUESTIONS & ANSWERS

Q: Explain:

Output VAT

Input VAT

A: Output VAT is the VAT chargeable by an attorney on taxable fees for services rendered.

Input VAT is the VAT payable by an attorney for goods acquired from another VAT-vendor.

Q: What is the purpose of a fees journal?

A: To debit fees, a non-cash transaction

Q: May two attorneys agree on an allowance of 20% on fees?

A: Yes

Q: What is the purpose of a trust trial balance? or

Define the term "Trust Reconciliation."

A: To reconcile the Trust Cash Book balance and the balances of the trust investments with the Trust Creditors balances in the Trust Ledger.

Q: Explain:

Sec 78(2A)-investment

Sec 78(2)(a)-investment

A: Sec 78(2A)-investment is where an attorney invests a clients' trust money on the clients' request and with his written approval. The interest accrues to the client - therefore for his benefit.

Sec 78(2)(a)-investment is where the attorney takes the initiative and invest surplus trust money in an interest bearing account. The interest thereon accrues to the Fidelity Fund.

Q: How does an attorney determine what amounts may be invested in a trust investment account in terms of section 78(2)(a)?

A: The attorney examines his Trust Creditors and determines which credit balances are not required immediately or in the immediate future. Those amounts which are not so required will be available for investments in terms of section 78(2)(a).

Q: How do you correct an incorrect debit entry in the ledger?

A: Credit the incorrect ledger account and debit the correct ledger account. Use the applicable Journal.

Q: Define the books of prime entry which an attorney is obliged to keep and explain the use of each book.

A: Trust Cash Book and Business Cash Book. These books are used for recording all cash transactions (receipts and payments). Fees Journal, Trust Journal and Transfer Journal. These journals are used to record all non-cash transactions and transfers.

Q: May a journal be used to correct an incorrect entry in a cash book?

A: No because both are books of prime entry.

Q: May an attorney issue a "cash" cheque from trust to pay bail?

A: No

Q: How often should:

1.1 a bank reconciliation be done?

A: On a monthly basis.

1.2 a list of trust creditors be extracted?

A: On a quarterly basis.

1.3 trust monies be banked?

A: On day of receipt or on the first following banking day.

1.4 an accountant's report be furnished to the Council of the Law Society?

A: Must be lodged with the Law Society within six months of the annual closing of the books.

1.5 an accountant be appointed to examine your accounting records?

A: Annually

Q: Which accounts, if any, may legitimately reflect a debit balance in your trust ledger?

A: Sec 78(2A) and sec 78(2)(a) trust investment accounts.

Q: May two attorneys agree:

1.1 not to grant any allowance on fees?

A: Yes

1.2 on an allowance of 40% on fees?

A: No.

Q: May an attorney withhold the banking of trust money to pay cash to a trust creditor?

A: No.

Q: How does an attorney determine the amount transferable from trust to business accounts?

A: Determine how much a client owes you on business. Determine if he is holding sufficient funds on trust to settle his business debt.

Q: How do you pay bail in cash when you are holding trust funds for a specific client?

A: Draw business cheque payable "cash", pay the bail and make the client a business debtor. Thereafter use a Transfer Journal to transfer the bail amount from clients' Trust Account to that same clients' Business Account. Issue a Trust cheque and receive the cheque in the Business Account

Q: You erroneously paid a trust creditor R1 000 instead of R100. How do you rectify the error?

A: Transfer R900 from business account to trust account and make client a business debtor for R900. To make him a business debtor use a Transfer Journal.

Q: Can an attorney operate without a trust account?

A: No. You cannot receive on business account any trust money.

Q: Describe the term "posting"

A: You record a transaction in a book of prime entry and you post it to a ledger account (it is the double entry principle)

Q: Every firm is required to produce a list of trust creditors. What must the list show?

A: Each creditor must be identified by name
List must be extracted in a clearly legible manner.
List must be totalled.
List must be compared with available trust funds.

Q: Discuss the criteria you would apply and the action you would take in deciding whether money received by you should be deposited into the business or the trust banking account?

A: If the client owes me money for fees and disbursements already raised in the books, so many as is received in cash up to that amount must be deposited into the business banking account and any excess into the trust banking account.

If the amount is received by way of a cheque, the total amount must be deposited into the trust banking account and thereafter, once the cheque is cleared, the business portion owing should be transferred to the business banking account.

Q: How often and when must VAT be paid over to the SA Revenue Service?

A: VAT must be paid every second month if the annual value of taxable supplies is less than R30mil and every month if it is more than R30mil. The VAT is payable on or before the 25th of the month following the end of the tax period.

Q: When is a practitioner obliged to register as a VAT vendor?

A: When the fee income for a 12 month period exceeds R1million.

Q: For how long and where must the accounting records of a practice be kept?

A: The accounting records must be kept for 5 years at the firm's main office.

Q: Define what monies may be paid

1.1 into an attorney's trust account?

A: Money held or received on account of client for services to be rendered.
Money for replacement of any such monies which may by error have been drawn from your Trust Account.
A cheque received in lieu of payment of Trust and Business monies.
A deposit on account for fees to be debited and disbursements to be paid.

1.2 out of an attorney's trust account?

A: Money required for payment to or on behalf of client or towards payment of debt due to an attorney from a client.
Money drawn on a client's mandate.
Money due to an attorney.
Money paid into the Trust Account in error.
A deposit for fees and disbursements once such services are rendered.

Q: Describe in detail all the information that must be recorded on a trust receipt.

A: It must be pre-numbered.
It must be in duplicate.
Date of receipt.
Amount in words and figures.
From who received, for whose credit and identify the transaction.
Indicate that it is trust.
Whether received in cash or cheque.

Q: Describe all the information that must be recorded on the counterfoil of a trust cheque.

A: Date
For whose account
Nature of transaction
Amount
Folio reference

Your client pays your attorney and client account for services rendered in a defended civil action. You tax your party to party bill of costs and the defendant's attorney pays you the amount of the taxed account.

Q: 1.1 Into which banking account will you deposit the payment?

A: Trust Account.

1.2 Describe how you will account to your client.

A: Account for the entire payment to your client as your client has already paid you your attorney/client account in the matter.

Q: Into which banking accounts would you receive payment of-

1.1 your attorney and client account

A: Business Account

1.2 your taxed party to party costs?

A: Trust Account

1.3 moneys received in the course of administering a deceased estate?

A: Estate Account

1.4 your commission in respect of an investment in terms of section 78(2A)?

A: Business Account

You have collected R20 000 on behalf of your client. He informs you that he does not have a bank account and requests that you give him a cash cheque for the monies due to him.

Q: How would you go about giving effect to your client's instructions?

Payment out of BUSINESS

A: Issue business cheque made payable to cash and uncrossed.
Use Transfer Journal: Debit client's trust account, credit client's business account.
Issue trust cheque and pay into business account.

Payment directly out of TRUST

A: Request client for his original ID document;
Make cheque payable to client with ID number. The cheque must not be crossed but payable to client only;

Request client to sign at back of cheque in your presence;
 Counter sign with words "signature confirmed by me";
 Client would then present cheque with ID document to Bank;
 Bank will request client to sign at the back of cheque under your counter signature;
 Bank will then pay cash to client.

Q: May trust cheques be drawn:-

1.1 without being crossed and marked "not negotiable"?

A: Yes

1.2 payable to "bearer"?

A: No

1.3 payable to an unidentified payee?

A: No.

Q: Set out the procedure to be followed when reconciling your trust cash book with your trust bank statement.

A: See page 6: Course Notes

Q: What records, systems and procedures would you introduce in your office to ensure proper control over cashier's float?

A: Existence of cashier's float to be verified at regular intervals.

Q: What security measures would you establish in your office to control the receipt of trust monies, the banking of trust monies, payments from trust account, issuing of trust receipts and trust cheques and generally ensuring that all monies are adequately accounted for?

A: Incoming mail register where money attached to correspondence.
 Two persons to open & check mail.
 Independent person to receipt money.
 Unused receipt books to be kept under lock and key and physically checked regularly.
 Detailed receipt book register to be kept or receipt books to be consequently numbered.
 Regularly review receipts issued against deposits made.
 Original and all copies of receipts to be kept in receipt book.
 All alterations of receipts to be initialed.

Monies to be banked regularly, promptly and intact in terms of Law Society Rules.

The bank deposit slip should be checked to ensure correct account details, date, amount and should be bank stamped.

Unused cheques to be kept in safe custody and physically checked regularly.

Only authorised professional persons should be allowed to sign cheques.

Cheques to be issued to identified payee and not to cash or bearer.

Adequate funds to be freely available in trust to justify payment.

Proper system of cheque requisition and payment authorisations to be in place.

Q: May an attorney operate a private ledger account for his own benefit in his trust ledger?

A: No

Q: What entries are made in your trust books of account to record a cheque marked "RD"?

A: Credit Trust Cash Book
Debit client's Trust Ledger Account

Q: What steps must an attorney take on discovering a trust deficit in his trust account?

A: Immediately report the deficit to the Law Society and thereafter transfer monies from business to trust to cover the deficit. Use a Transfer journal and make the client a business debtor.

Q: When must notification be given of the existence of a trust banking account?

A: Once the account is opened and without delay.

Q: The bank where your trust monies, due to trust creditors are held in respect of sec 78(1), is liquidated. What are the remedies, if any, of the trust creditors against:

- **the bank?**

A: the trust creditors cannot claim against the bank as they are not the bank's customers.

- **the Attorneys' Fidelity Fund?**
 - A: none, this lost is not covered by the Fidelity Fund.
 - **you as the practitioner?**
 - A: The attorney is liable to make good any trust shortfall. If the bank goes insolvent, he would be liable to repay all monies due to trust creditors.
- Q: What are your rights in such a case?**
- A: You claim as a concurrent creditor in the insolvent estate of the bank.
- Q: To whom does an attorney pay interest earned from trust investments made surplus lump sums in the trust account?**
- A: Fidelity Fund
- Q: What entries, if any, would you make in the books of account of your practice when you discover the following:
Your trust bank statements show that contrary to your express instructions your bank has debited your trust account with bank charges.**
- A: Telephone the bank and request the bank to reverse the entry; or
Issue a business cheque for the amount and deposit it in the trust account.
- Q: A cheque for R2 500 deposited in your trust account has been returned "refer to Drawer" (RD). You have already accounted to your client?**
- A: Make the client a business debtor. Use a Transfer Journal (debit clients' Business ledger account with R2 500 and credit clients' Trust ledger account with R2 500.
Issue business cheque R2 500 (credit Business cash book)
Deposit cheque in trust R2 500 (debit Trust cash book)
- Q: Your bookkeeper has inadvertently credited a trust creditor, Jones with a receipt of R500 which should have been credited to Smith's trust account.**
- A: Use the trust journal to debit Jones trust ledger account with R500 and credit Smith's trust ledger account with R500.

Q: What action should be taken if monies are directly deposited into the trust banking account and the identity or source thereof is unknown? State what entries, if any, will be made in your accounting records. What entries will be made when the identity is established and state which book of prime entry, if any, will be used.

A: Contact the bank and all staff members to try and establish the source and identity of the funds received.

- (1) Debit Trust Cash Book and Credit Suspense Trust Ledger Account.
- (2) Debit Suspense Trust Ledger Account and Credit Identified Clients Trust Ledger Account using the Trust Journal as book of prime entry.

Q: It has been two years since you were admitted as an attorney and together with a colleague you decide to open your own partnership now. You are charged with the responsibility of setting up the bookkeeping system; ensuring that you comply with the Attorneys Act and the rules of your Law Society. Describe the system you will implement for:

(a) The receiving of trust money and the banking thereof.

A: Purchase purpose printed receipt books;
 Maintain a stationery register for control over issuing of receipts books;
 Receipts to be issued for all monies received including electronic transfers and direct deposits;
 Receipts to be entered into cash book;
 Purchase proper deposit books – do not use of loose deposit slips;
 Receipts to be reconciled to deposit and documented as such;
 Cashbook to be reconciled to bank statement at least on a monthly basis.

(b) The recording of petty cash expenses.

A: Obtain a separate petty cashbook;
Record on the debit side all monies drawn from the business account for petty cash;
Record on the credit side all disbursements paid from the petty cash in chronological order;
Retain all the vouchers in chronological order;
Balance the petty cashbook at regular intervals;
Petty cash book should be scrutinized by a partner to ensure that the cash on hand corresponds with the balance in the petty cash book.

(c) The treatment of trust bank charges.

Instruct the bank to deduct all trust bank charges off the business account;
Record these as recoverable charges in the business ledger;
Treat the VAT on these bank charges as INPUT VAT;
Claim these bank charges from the Fidelity Fund.

Q: The bookkeeper that you appoint, while having a sound knowledge of bookkeeping principles, has never worked in an attorneys practice. You decide to work with her for the first month. Detail the legal requirements as regards to:

(a) Trust debit balances.

A: A trust ledger may have no debit balance on a clients ledger account. The only legal debit balances are Section 78(2)(a) and Section 78(2A) investment balances.

(b) Trust trial balance.

A: On a quarterly basis a list of trust credit balances must be extracted and totalled. The total of this list must be equal or less than the total of the trust cash book balance plus the Section 78(2)(a) and Section 78(2A) investments at that date. This Trust reconciliation must be kept for 5 years.

(c) The period books must be retained for.

A: Books must be retained for a period of 5 years from date of last entry