

## **YOUR NOTARY AND YOUR MONEY**

### **Deposits in trust accounts**

#### **DEPOSITS IN TRUST ACCOUNTS**

In the exercise of their profession, notaries are often called upon to temporarily hold funds in their trust accounts for payment to another person. This is especially true in the case of the proceeds of a sale of property, a hypothecary loan or the settlement of a succession.

#### **WHY IS THE NOTARY REQUIRED TO HOLD YOUR MONEY?**

Notaries do not withhold sums of money in their trust accounts on a whim. Before remitting funds, they must make certain verifications. The case of the sale of a property is a perfect illustration.

When you sign the deed of sale for your property, you do not receive your money that same day. Before your notary can remit the proceeds of sale to you, he or she must file all the necessary documents concerning the sale at the relevant registry office to permit the attendants to make the necessary entries in the register. This process normally takes a few days.

The notary will remit the proceeds of the sale only after having verified that the purchaser appears as the owner in the register and that, in accordance with your obligations under the deed of sale, there is no new, undeclared charge registered against the property.

The professional liability insurance fund for notaries makes withholding funds obligatory; it is even a prerequisite for the notary's insurance policy.

#### **WHERE IS THE MONEY DEPOSITED?**

Notaries must immediately deposit money entrusted to their care by or on behalf of their clients into a special account called a trust account. The account may be opened in a bank, credit union or trust company. The financial institution used must be a member of the Régie de l'assurance-dépôt du Québec (Quebec Deposit Insurance Board).

The Chambre des notaires also exercises strict control over the administration and audit of notaries' trust accounts. If a notary leaves the practice, the Chambre immediately appoints another notary to act in his or her stead, to prevent any delay from adversely affecting clients.

Sometimes a deposit remains in the trust account for quite a while before payment is ultimately made. This is the case in the settlement of most successions. In such situations the notary may recommend that an exclusive, special trust account be opened to earn interest. If you ask your notary to open a special trust account for you, he or she will charge administration fees and will be entitled to professional fees for such work.

As a rule, however, money is turned over to a notary for a short time only, which does not justify the opening of a special account. In fact, professional and administration fees for a special trust account often exceed the interest generated on the money deposited.

For this reason, the notary places most client deposits in a general trust account. Each client has a personal record for sums of money deposited to and withdrawn from the trust account and is entitled to ask for a statement of transactions. Interest generated in this account must, by law, be paid to the Chambre's Notarial Studies Fund.

## **WHAT IS THE NOTARIAL STUDIES FUND?**

The Notarial Studies Fund was created in 1973 under the Notarial Act, and is funded mainly by the interest earned on notarial trust accounts. It also receives donations and bequests.

The Chambre des notaires du Québec administers this Fund in accordance with the Act. The Fund, through the Chambre des notaires, is thus annually able to underwrite several activities and projects compatible with its objectives.

## **HOW IS THE FUND USED?**

In recent years, the Notarial Studies Fund has made it possible to support numerous research projects and activities sponsored by several organizations in the areas of law and justice.

A significant portion of the Fund is dedicated to the training of and proficiency courses for notaries.

The Fund has also contributed to the creation and maintenance of a comprehensive legal documentation centre and the development of an advanced computer program designed specifically for notaries.

Thanks to the Fund, a program of grants for graduate studies has been set up to encourage the development of specialists among Quebec notaries.

If the numerous training courses and publications financed in part by the Fund are taken into account, it is clear that the Fund contributes greatly to the updating of notaries' skills. The public is thus ensured of service of the very highest quality.

## **RESTRICTIONS**

Notaries who receive cash sums of money in excess of \$10,000.00 for deposit in their trust accounts are subject to the same legal restrictions and declarations as financial institutions with respect to the source and use of these sums. These measures aid in the struggle against money laundering.

You may obtain more information on the Notarial Studies Fund or its grants policy from the Secretariat of the Chambre des notaires du Québec.

**Consult your notary: he leaves nothing to chance.**



