

NORTH DAKOTA COURT RULES
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LOCAL RULES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT
OF NORTH DAKOTA

D ND USDC, Rule 67.1 (2002)

Rule 67.1. Qualified settlement funds.

(A) Establishment

A registry is a designated or qualified settlement fund only, if:

- (1) There has been a settlement agreement in the case.
- (2) The court has entered an order establishing or approving a deposit into the registry as a settlement fund.
- (3) The liability resolved by the settlement agreement is of a kind described in 26 U.S.C. § 468B or 26 C.F.R. § 1.468B-1(c). It is the responsibility of the depositing party to identify any registry deposit intended to be a designated or qualified settlement fund.

(B) When a fund is not qualified or designated

A registry account is not a designated or qualified settlement fund, if:

- (1) The account comprises only funds that a person deposited with the court pursuant to law or court order in the absence of a settlement agreement, or;
- (2) The account has a judicial purpose other than to serve as a designated or qualified settlement fund. Bond moneys, cash collateral, interpleader deposits, condemnation deposits, contempt fines, and any moneys paid into court in a criminal case can never be designated or qualified settlement funds.

(C) Procedure for establishment of fund

If the court establishes or approves a designated or qualified settlement fund that will be held in the registry, the court must also designate or approve a person outside the court as an administrator responsible for obtaining the employer identification number of the fund, filing all fiduciary tax returns, and paying any tax. The court must either approve the person that the settlement agreement names as an administrator or designate the party that deposited the funds into the court.

(D) Interest income

All interest income on a designated or qualified settlement fund must be reported by the depository for the current year using the fund's own employer identification number. This includes interest income assessed by the court as a registry fund fee. The tax identification numbers of the litigants and the court cannot be used with respect to a designated or qualified settlement fund.

(E) Reporting

Interest in registry accounts that are not designated or qualified settlement funds will be reported by the depository using the court's tax identification number. When the court awards the interest at the conclusion of the case, the court will report the interest of \$10 or more that is paid to each recipient on a Form 1099-INT as a single payment by the court in the year of the award using each recipient's tax identification number in accordance with *26 U.S.C. § 6049*, *26 C.F.R. § 1.6049-4(d)(6)*. The court may arrange for the depository to produce the Form 1099. The interest assessed by the court as a registry fund is not included on any recipient's Form 1099. No further reporting is required with respect to the interest assessed by the registry fund fee.

(F) Withdrawal

As with any disbursements from the registry account, a court order is required for any withdrawal of funds from a registry account to pay or withhold tax in accordance with *28 U.S.C. § 2042*.

(G) Assistance to administrator

The court may make available to the administrator any information respecting the fund that the administrator needs to fulfill fiduciary duties.

NOTES:

Source: Amended effective January 4, 2000.