

Legacy Advisor

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LABOR ORGANIZATIONS

LM-30 Update

The Labor-Management Reporting and Disclosure Act (LMRDA) requires union officers and employees to file Form LM-30, *Labor Organization Officer and Employee Report*, to disclose financial transactions and arrangements that pose an actual or potential conflict of interest. In 2007, the Department of Labor (DOL) made numerous changes to the form and instructions, which significantly increased the information required to be reported. The 2007 rules created strong objections and much uncertainty as to what needed to be reported. Prompted by the uncertainty, the DOL announced in March 2009 that they would not take enforcement action on much of the 2007 reporting requirements and filers could use either the pre-2007 or revised 2007 form. In an effort to clarify and simplify the reporting requirements, proposed rules were issued in August 2010 addressing the issues of the 2007 rules. On October 26, 2011 the DOL issued final rules rescinding the 2007 Form LM-30 and establishing a Revised 2011 Form LM-30, which is designed to balance the benefits of disclosure with the burden of reporting.

The principal revisions are, in general:

- Union leave and no docking payments are not reportable.
- Union stewards are not considered to be employees of the union and are exempt from the Form LM-30 filing requirements.
- Bona fide financial transactions, including loans, with financial institutions are not required to be reported.
- Payments from unions, their trusts, and employers that compete with employers whose employees are represented by the union are not reportable.
- The requirement that officers of a national, international, or intermediate union must report interests in and payments from employers and businesses that have a relationship with subordinate affiliates in addition to their own union has not changed. The scope of required reporting for employees of parent unions, however, has been revised to limit the reporting requirement to employees who exercise "significant authority or influence" over the activities of a subordinate.

The new rules are effective for years beginning on or after January 1, 2012. The revised Form LM-30 must be filed for 2012. For 2011, the DOL will accept the pre-2007 form, 2007 form, or the new revised form and, accordingly, will not initiate enforcement actions for failure to file a particular form as long as the filing obligation is met in some manner.

By Donna A. Hubert, CPA, Partner, dhubert@legacypas.com

Legacy News

In Firm news, Timothy D. Lakis, CPA, CFE, is now the Partner in Charge of the Firm's Schererville, Indiana office. The office (formerly in Munster) is now located at 222 Indianapolis Blvd., Suite 103, Schererville, IN 46375. The Minnesota office has also moved. While still based in Edina, the office's new address is 6800 France Avenue So., Suite 550, Edina, MN 55435.



Tim Lakis, CPA, CFE

Additionally, effective January 1, 2012, Larry Wood, CPA, who recently transferred to the Minnesota office from the Chicago office, was promoted to Senior Manager. Brian Ellefson, CPA, and Ryan Lacey were promoted to Manager in the Firm's Chicago Audit Department.

Our Annual Tax Releases and the 2012 Rates & Limits Release are posted on www.legacypas.com. There is a link to the Releases on our homepage or you can click on *Publications/Annual Tax Releases*. Let us know if you need additional copies of the laminated Rates & Limits Release.

We are grateful to our clients for your continued business. We also appreciate your referrals. In addition to auditing over 250 labor organizations, we work with hundreds of employee benefit plans, trade and professional associations, charitable organizations, villages, municipalities, school districts, and other organizations.

Contact Marketing Director, Julie Tucek, at 312-384-4292 or jtucek@legacypas.com if you would like to discuss any opportunities. We always welcome guest writers and topic ideas for *Legacy Advisor*; don't hesitate to send us your thoughts and ideas!

This issue was edited by Robert A. Cann, CPA, Partner, Director of Compliance Services. Bob can be contacted at rcann@legacypas.com or at 312-384-4213.

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Bonding Insurance



Bob Cann, CPA

Now that we have begun a new year, a "best practice" is to review your union's bonding insurance. This type of insurance is required by the Labor-Management Reporting and Disclosure Act (LMRDA) and almost always by international and local by-laws and constitution.

The required bond guarantees reimbursement to the union for any financial loss by fraudulent or dishonest acts by officers or employees, such as theft, embezzlement, or forgery.

LMRDA provides that any person who "handles" union funds or property must be bonded for at least 10% of the funds handled during the union's preceding fiscal year, up to a maximum of \$500,000. An individual is considered to be "handling" union funds if his or her duties or authority provide access to union funds resulting in a significant risk of loss of funds if that person engages in fraudulent or dishonest acts. Any officer or employee who has authority to sign checks on the union's accounts is "handling" union funds and must be bonded even though they may have no physical contact with the funds. Individuals who typically must be bonded include elected and non-elected union officers, employees such as business agents, trustees, key administrative and professional staff, and clerical personnel. Failure to cover the proper individuals is one of the most common violations of LMRDA during a Department of Labor examination.

The required bond must be obtained from a company on the U.S. Treasury Department's list of approved bonding companies. A copy of this list may be obtained from the nearest Office of Labor Management Standards (OLMS) office. It can also be found at: http://www.fms.treas.gov/c570/c570_a-z.html.

In many instances a local union may obtain the required bond from their International Union. Also keep in mind it is possible to obtain a "bad" bond from an approved company. Bonds that contain deductibles or will only reimburse the local based on some event or condition, such as criminal prosecution, are examples of unacceptable or "bad" bonds.

Consider the following tips to stay compliant with the bonding requirements:

1. Recalculate the required coverage amount at the end of the close of your fiscal year. As an additional service to our clients, your Legacy auditor will compute the minimum coverage amount during our annual examination and advise you of any required changes.
2. If the required amount increases from the prior year, obtain the amended coverage as soon as possible. The amount of your bond is reported on the LM Form your local files with the Department of Labor, which allows them to quickly and easily monitor your compliance.
3. Make sure everyone who "handles" funds is bonded.
4. Make sure your bonding company is included on the list of approved companies. Be aware the law prohibits obtaining a bond through a company in which a union representative has any direct or indirect interest.

By incorporating this simple and quick review in your annual best practices, you can ensure your local's compliance with this requirement. The Department of Labor offers additional tips and tools on bonding on their website at www.dol.gov.

By Robert A. Cann, CPA, Partner, Director of Compliance Services, rcann@legacypas.com

IRS Inflation Adjustments

The Internal Revenue Service (IRS) increases many dollar limits, credits, and fringe benefits annually for inflation. The increases are based on various cost-of-living indexes used by the IRS. For the past two years, many of these limits remained unchanged. For 2012, some limits will not change while many have increased. The following are some of the limits for 2012.

The Social Security tax wage base increased for the first time in 4 years to \$110,100 for 2012. The employee Social Security withholding rate, which was decreased from 6.2% to 4.2% in 2011, remains at 4.2% through February 29, 2012, at which time the rate will revert back to 6.2% unless legislation is enacted. The employer Social Security tax rate remains at 6.2%. Additionally, Medicare taxes are not limited to a wage base and the rate remains at 1.45% for both employees and employers.

Qualified retirement plan limits also increased after remaining unchanged for 3 years. The maximum 401(k) employee deferral for 2012 is \$17,000 plus a \$5,500 catch-up contribution for participants age 50 and over.

The standard mileage rate, which was increased to \$.555 per mile as of July 1, 2011, remains unchanged. The standard mileage rate is based on the costs of operating an automobile. It does not include parking and tolls connected to business driving, which may be deducted or reimbursed separately.

See our *2012 Rates & Limits Release* posted on our website for a more complete list.

By Maria C. Solis, CPA, Partner, msolis@legacypas.com

Safeguarding Records

For labor organizations, the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) requires that all records supporting a Form LM filing be kept for five years. The Internal Revenue Service requires that most records be kept for three years after a Form 990 is filed, and payroll tax records must be kept for a minimum of four years. These are just a few of the many recordkeeping requirements requiring compliance.

But what happens when there is a disaster and your records are destroyed? The answer is that your responsibility for maintaining required records is not mitigated by events beyond your control. With that in mind you should consider taking action to ensure the safety of your records.

The most basic way to safeguard your records is to keep a backup set in a safe place away from the original set of records. With current technology, it is easy and economical to create an electronic backup set of records. Many financial institutions provide statements and documents electronically. These and other documents in electronic form can be

downloaded to a backup storage device such as an external hard drive, or burned to a CD or DVD. Original documents provided only on paper can be scanned into an electronic format. Ideally, computer data systems backups should be created daily to limit the information that is at risk. Backups of other documents and information should be created on a regular basis. It is important that backups are stored offsite. If original records at your place of business are destroyed there is a good chance that backups kept at the same location or even nearby will also be destroyed.

There are many reasons to safeguard your records, and the governmental recordkeeping requirement is just one of them. In addition to your financial records, consider keeping a backup of other pertinent documents such as minutes, insurance policies, contracts, and leases. If disaster strikes, having backups of your records and important documents will help you cope with the situation.

By Donna A. Hubert, CPA, Partner, dhubert@legacycpas.com

Voluntary Classification Settlement Program

For several years the Internal Revenue Service (IRS) has been taking steps to improve compliance with worker classification requirements. Taxpayers that treat employees as independent contractors may be liable for employment taxes for improperly reported payments. While there is much guidance on determining whether a worker should be treated as an employee or independent contractor, in many cases there is not a definitive answer or the situation is misinterpreted. There are instances where workers who are employees are being treated as independent contractors, as a result exposing the taxpayer to potentially significant taxes, penalties, and interest.

The IRS has developed a new program, Voluntary Classification Settlement Program (VCSP), which allows taxpayers who are currently treating certain workers or a class of workers as independent contractors to prospectively treat them as employees. The program allows the reclassification with partial relief from federal employment taxes for the past non-employee treatment.

Under the VCSP, an employer can treat the reclassified workers as employees for future tax periods. The employer must pay 10% of a reduced rate of employment tax for compensation paid

to those workers during the most recent year. For 2011, the applicable reduced rates are 10.28% of wages up to the social security wage base and 3.24% of excess wages. Interest and penalties are not assessed under the program. In addition, the employer will not be subject to audit adjustments to employment taxes for prior years with respect to the reclassified workers.

In order to participate in the VCSP, eligible taxpayers must file Form 8952, *Application for Voluntary Classification Settlement Program*, at least 60 days before the date they want the workers to be treated as employees. Eligible taxpayers are those who have treated the workers as independent contractors and filed the required Forms 1099 for the past three years. Taxpayers currently under audit by the IRS are not eligible. Taxpayers accepted into the VCSP must enter into a closing agreement with the IRS and pay the calculated tax due.

If you have workers or a class of worker that you are currently treating as independent contractors and are not totally confident of this classification, you may want to review the relationship and consider the VCSP if applicable.

By Donna A. Hubert, CPA, Partner, dhubert@legacycpas.com

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Legacy Supports Defeating Right To Work in Indiana

The partners of Legacy sent the following letter to the members of the Indiana State Senate and House of Representatives:

January 23, 2012

Indiana State Senate and
Indiana House of Representatives
200 W. Washington Street
Indianapolis, IN 46204-2786

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PROFESSIONALS LLP
CERTIFIED PUBLIC ACCOUNTANTS

Dear Members of Indiana State Senate and House of Representatives,

We are writing to ask for your support in defeating the Right To Work legislation in the State of Indiana. We ask that you reject this proposed bill that would result in wage and benefit cuts for working citizens, both union and non-union workers, as well as a decreased tax base for the entire state of Indiana. It does not create jobs, instead, it eliminates them and replaces them with lower-paying jobs.

We strongly support economic growth in Indiana, but do not see the Right To Work legislation as part of the solution.

Sincerely,
The Partners of Legacy Professionals LLP



Contact us at info@legacycpas.com
if you'd like to receive
Legacy Advisor via email.



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