

LM-10 Advisory

The Department of Labor's (DOL) Office of Labor-Management Standards (OLMS) issued an advisory regarding Form LM-10 on November 10, 2005. The advisory includes answers to several of the questions OLMS has received regarding Form LM-10. There is too much information in the advisory to cover in this News Flash; however, a summary of some of the major points is listed below. Watch for additional communications providing further information in the near future.

The advisory clarifies that virtually every private sector business or organization within the United States that has at least one employee and does business with a union or related trust (including investment advisors, investment companies, and banks) potentially has a filing requirement. Additionally, businesses actively seeking to establish a business relationship with the union, related trust or union members through a recommendation or list provided by the union must also file. **OLMS will not enforce Form LM-10 filing requirements for unions and trusts pending the completion of Form LM-30 rulemaking and further written guidance.**

On November 7, 2005 OLMS announced that until final rules establishing revised Form LM-30 are issued, gifts, gratuities or loans with a value of \$250 or less are considered insubstantial and need not be reported by union officers and employees. In order to be consistent, the de minimis standard for the LM-10 is also temporarily set at \$250. Multiple gifts or loans from a single employer to a single union or union official must be aggregated when determining if the \$250 threshold is met.

If multiple service providers split the cost of an otherwise reportable payment, each service provider is required to file a Form LM-10 for their portion only. The service provider should consider the amount they actually paid for purposes of the de minimis exception.

Under a special enforcement policy, first time filers of Form LM-10 will not have to submit reports or maintain records for fiscal years beginning prior to January 1, 2005. **Employers must file their report on time (90 days after their fiscal year end) in order to take advantage of this policy.** OLMS may seek reports for the five prior years for those employers who do not comply. Form LM-10 normally must be signed by the officer and treasurer of the employer under penalty of perjury. OLMS recognizes that not every employer kept all the records necessary to file a complete return. If employers act diligently and in good faith to report all required transactions for fiscal years beginning prior to December 31, 2005 they can avoid signing the report under penalty of perjury. However, adequate records must be maintained for all subsequent years.

For a copy of the Advisory visit the website:

www.dol.gov/esa/regs/compliance/olms/lm10_advisory.htm

Please feel free to contact us if you have any questions. Bob Cann and Donna Hubert, of the Legacy Tax Department, are available at 312-368-0500 or via e-mail at rcann@legacypas.com or dhubert@legacypas.com.