

Legacy Advisor

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LABOR ORGANIZATIONS

Time Allocation for the New LM-2 Form



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One of the significant changes to the Form LM-2 requires each officer and employee to allocate their time between five functional activity categories. The five functional activity categories are Representational Activities; Political Activities and Lobbying; Contributions, Gifts and Grants; General Overhead; and Union Administration.

Individuals must estimate the percentage of time spent in each category for the reporting period. The percentages may be rounded to the nearest 10% except for activities to which less than 5% is allocated. In those cases, the estimated percentage should be used rather than rounding to zero. The total of the percentages must equal 100%. The DOL has acknowledged that the allocations may be imprecise.

There is some question as to what time has to be allocated. Is it limited to normal business hours? Most likely not. While the

DOL has not issued anything definite on this, it has indicated that all "compensated time" has to be allocated. Time spent as part of the position, expected of the position, in the capacity of the position, or holding yourself out to be in the position, is considered compensated time and should be allocated. Basically, all time spent that is related to official duties of the position must be allocated.

There are no specific record keeping requirements such as calendars or time sheets. The DOL has said a good faith estimate is sufficient. However, the DOL has indicated that if individuals have records that will enable them to better estimate their time they should use them in order to improve the accuracy of their estimate. In response to a frequently asked question regarding good faith estimates that are not exact, the DOL said, "If you expect to have the estimate challenged, then you should maintain records to substantiate your good faith estimate. You should feel confident that you will

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Legacy News

In this issue, you'll find information about the new LM-2 Form, the required time allocations, and functional categories. Details about an upcoming seminar to be presented by Bob Cann on the new T-1 Form can be found on page 3. We will continue to keep you updated and provide you with information on these topics in future issues of Legacy Advisor.

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Feel free to submit an article or a question to us. If it's a Frequently Asked Question (FAQ), we can explore it further in our next issue or post the information for everyone to read on our website. Feel free to contact Julie Tucek, our Marketing Director, or one of our editors, Donna Hubert, CPA, or Bob Cann, CPA. We appreciate your input and always look forward to your feedback.

We sincerely thank you for your continued support of the Firm. Our goal is to provide technical expertise and superior client service to all of our clients. Please do not hesitate to contact us at any time if you need anything or if you have any feedback or suggestions for us.

- The partners and staff of Legacy Professionals LLP

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Final Effective Date?



On January 22, 2004, the U.S. District Court upheld the implementation of the revised Form LM-2 and the new Form T-1 but changed the effective date to the later of July 1, 2004 or 90 days after the DOL makes a fully tested version of the reporting software available. The AFL-CIO has questioned the ability of the DOL software to

function as directed. The DOL has taken the position that the software posted on its website on March 26, 2004 is a fully tested workable version and consequently the new reporting requirements will be effective for fiscal years beginning on or after July 1, 2004.

Contact us if you have any questions.

*By Bob Cann, CPA, Chicago office
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Backup Withholding

No matter how careful you were preparing Forms 1099 for 2003, you may still hear from the Internal Revenue Service (IRS). Payers must request Taxpayer Identification Number (TIN) from payees and include the TIN on Form 1099. Penalties may be assessed for returns filed with missing or incorrect TINs. The IRS backup withholding program provides information to payers about missing or incorrect TINs submitted.

The IRS backup withholding notice includes a listing of the incorrect TINs reported. A TIN is incorrect if the name/TIN combination doesn't match or cannot be found in the IRS or SSA databases. If you receive a backup withholding notice from the IRS you should:

- **Compare the listing with your records**
- **For missing TINs, begin backup withholding immediately, if you have not already done so, and continue until you receive the TIN.**
- **For incorrect TINs, compare the IRS listing to your records. If they agree, send the IRS "B" notice, along with a W-9 Form, to the payee to obtain the correct TIN. The listing may not agree with your records due to a recent update, an error in the information submitted, or an IRS processing error. Depending on the circumstances, you may have to submit a corrected return.**

It is very important that you respond promptly and correctly to any IRS notice you receive. IRS Publication 1679, A Guide to Backup Withholding for Missing and Incorrect

Name/TINs, contains information about backup withholding requirements and what to do when you receive a backup withholding notice. The publication can be accessed on the IRS website at <http://www.irs.gov/pub/irs-pdf/p1679.pdf>

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Functional Categories

In addition to time being allocated on the revised Form LM-2, certain expenditures must also be allocated into the five functional categories. What this means is that many expenditures will no longer be reported on the Form LM-2 using their account description such as printing, rent, legal fees, etc. Instead, these expenses must be reported by functional category. This presents the problem of how to maintain your books and records in a way that gives you the information needed to prepare the Form LM-2 and still provide the information needed to prepare your financial statements.

It is very important that this information is maintained throughout the year. It will be impossible to reconstruct your records after the fact. Your local union may need some assistance in order to properly comply with the new changes and regulations. Contact us to discuss your individual situation and practical solutions. We are here to help.

Cann to Speak about Form T-1 at Benefit Plan Professionals Institute



As you probably already know, as part of the revised Form LM-2 reporting requirements, many labor organizations will now be required to file the new Form T-1, Trust Annual Report. The Form T-1 is used to report a trust's financial information in a format similar to the Form LM-2. The T-1 must be filed with the labor organization's Form LM-2 for each trust in which the organization is considered interested. Education and training funds, credit unions, and labor management cooperation committees are some examples of trusts for which a Form T-1 may be required.

Bob Cann, Director of Compliance Services, from Legacy Professionals LLP's Chicago office, will be speaking about the new T-1 Form at the International Foundation of Employee Benefit Plans' (IFEFP) Benefit Plan Professionals Institute in Lake Tahoe, NV. The conference is scheduled for June 14-16, 2004.

Bob's presentation will cover: who must file Form T-1 and when, what information is needed to prepare the form, filing exceptions, who is responsible for the cost, reporting options, itemized receipts and disbursements, electronic submission, and more.

We will follow up in the next issue with more details on the T-1 Form. You can reach Bob Cann at rcann@legacypas.com if you have any questions.

For more information on the conference, visit <http://www.ifebp.org/education/bppinst.asp>

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be able to justify your actions if that becomes necessary." Records used to make the estimate are considered records used to prepare the Form LM-2 and must be kept at least five years after the return is filed. This would include personal calendars referred to while making the estimate.

So while there are no time keeping requirements, we strongly suggest that each organization consider implementing some type of record keeping to capture the information necessary to file an accurate return. The most accurate method would be a detailed daily time sheet, but we know that most officers, business agents, and staff do not want the burden of preparing daily time sheets. At a minimum, we suggest you keep time sheets for a period of time (daily, weekly, monthly) that represent your normal routine. The results could then be extrapolated out for the entire year. Remember that if something changes your routine during the year, this must be worked into the percentages used for the extrapolation. The time summaries can be kept using hours or percentages by functional category.

Every officer and employee will need to understand what activities belong in each functional category in order for them to make their estimates. Keep in mind that even the most detailed time keeping requires some personal judgment.



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Whatever method is used to estimate the percentages, it is advisable for officers and employees to complete a statement at the end of the year stating their time allocations into the five categories. These statements along with any other documents used to prepare the estimates must be kept by the union. That way the officers can show they made a good faith effort as required by the DOL.

Let us know if you need assistance with your organization's time allocations.

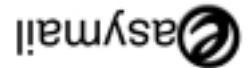
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A Note From the Editor

The new Form LM-2 reporting requirements are substantial. We are working with our over 200 labor organizations to make sure they are ready and able to comply. Contact us for additional information. I can be reached at dhubert@legacycpas.com or at 312-384-4238.

This issue was edited by Donna A. Hubert, CPA. Donna heads up Legacy's Tax Department and works out of the Firm's Chicago office.

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