

## Important Update on Forms LM-30 and LM-10

### FORM LM-30

#### UNION OFFICERS AND EMPLOYEES REPORTING

The Labor-Management Reporting and Disclosure Act (LMRDA) requires officers and employees (except employees performing exclusively clerical or custodial services) of a labor organization to file an annual report with the Department of Labor (DOL) if they engage in certain financial transactions and/or hold certain financial interests. The Form LM-30, *Labor Organization Officer and Employee Report*, must be filed by the individual to satisfy the reporting requirement.

The purpose of the form is to report possible conflicts of interest. The fact that a transaction is reported does not necessarily indicate that a conflict exists. In many cases, meaningful business activities are included in the reporting requirements.

Form LM-30 must include the name and address of the business, the nature of the transaction or interest, and the amount or value of the transaction/interest. The reporting requirements apply to financial transactions and financial interests of labor organization officers and employees and their spouses and minor children with the following:

- an employer whose employees the union represents or seeks to represent;
- businesses for which a substantial part of their business is with employers whose employees the union represents or seeks to represent; and
- businesses which do business with the labor organization or a trust fund related to the labor organization.

Financial interests that must be reported include holding securities or other interests, participating in a transaction involving securities or other interest, and loans to or from the above. However, investments in and income from securities traded on a registered national securities exchange, a registered investment company, or a public holding company are not reportable. Holdings of, or transactions in, securities not listed or registered on a registered national exchange totaling \$1,000 or less and income from any one security of \$100 or less are also not reportable.

The financial transactions that must be detailed on the report are any income, payment (including reimbursed expenses) or other economic benefit received, either directly or indirectly, by the officer, employee, spouse, or minor child from any of the above. Economic benefit includes anything of value such as meals, golf, tickets to sporting events, and other entertainment.

Sporadic or infrequent gifts, gratuities, loans, and other transactions valued at \$25 or less need not be reported. For example, an infrequent lunch with a service provider valued at less than \$25 need not be reported. However, lunches held on a regular basis, such as monthly, must be reported, even if individually valued at less than \$25.

In addition to the employers listed above, LMRDA requires the receipt of anything of value from any other employer to be reported. The DOL has indicated that transactions with an employer that are outside the spectrum of conflict of interest need not be reported. This exemption would apply only where there is no relationship between the employer and the labor organization or trust funds, there is no possibility of such a relationship existing in the future, and there is no other possibility of a conflict of interest.

The form must be filed with the Department of Labor within 90 days after the individual's fiscal year end. Since virtually all individuals' fiscal years end on December 31, the form is normally due on March 31. On April 25, 2005, the Department of Labor announced a grace period for new filers of Form LM-30 to comply. New filers must voluntarily submit an initial report for 2004 by July 15, 2005. Under normal enforcement procedures, the DOL would typically require reports for five prior years. In an effort to achieve greater compliance, filers who take advantage of the grace period will only be required to file a report for 2004, even if reports should have been filed for prior years.

The DOL has acknowledged that many union officers and employees were previously unaware of the Form LM-30 reporting requirements. The form for 2004 should report transactions and interests for which the individual has the necessary information or that can be reasonably estimated. Individuals are expected to make a good faith effort to file a complete and accurate report for 2004. For 2005 and forward, officers and employees are mandated to maintain sufficient records and to report all required transactions and interests.

The labor organization officer or employee is personally responsible for the filing of an accurate Form LM-30. Failure to file or filing an incomplete or inaccurate report could constitute a federal criminal offense. Records used to prepare the form must be kept by the individual for a minimum of five years after the report is filed. The form is posted on the DOL's website, [www.dol.gov](http://www.dol.gov), and completed forms are also available for public inspection on the site.

## **Form LM-10**

### **EMPLOYER REPORTING**

In addition to the officer and employee filing requirements, LMRDA requires employers to report certain financial transactions and arrangements with labor organizations, officials, employees, and labor relations consultants. Employers are required to file a Form LM-10, *Employer Report*.

In general, reporting is required for any payment, loan, or other item of value (including reimbursed expenses) given to any labor organization or any officer, agent, shop steward, or other representative or employee of any labor organization except:

- payments made in the regular course of business if such payment is unrelated to the employee's status in a labor organization;
- loans made under terms unrelated to the employee's status in a labor organization;
- payments made to an employee as wages; and
- sporadic or occasional gifts, gratuities, and other transactions valued at \$25 or less.

The report must detail the date and amount of each transaction; the name, address, and position of the person with whom the transaction was made; and a full explanation of the circumstances of all payments. Like the LM-30, there have been very few Forms LM-10 filed. The DOL has indicated that it is currently considering actions to improve compliance.

Below are several practical examples of reportable and non-reportable events for proper filing of the Form LM-30:

*Example 1*

You are an officer or an employee of a union. Your local buys a fleet of cars from a neighborhood car dealer. The local receives a discount on the purchase. Your spouse goes to the same dealer to buy a new car. Your spouse tells the dealer you are an employee of the local and the dealer gives your spouse a discount. The amount of the discount is reportable.

*Example 2*

You are an officer or an employee of a union. The local's attorney sends the officers and employees a Christmas gift. If the gift is valued at \$25 or less, the gift is not reportable. If the gift is valued at more than \$25, the full value of the gift is reportable.

*Example 3*

You are an officer or an employee of a union. A service provider for a related trust fund pays for golf and lunch valued at \$150. The \$150 is reportable.

*Example 4*

You are an officer or an employee of a union. You are meeting with the local's attorney on official union business. The meeting continues through lunch which the attorney pays for. If the lunch is valued at \$25 or less, the lunch is not reportable. If the lunch is more than \$25, it is reportable.

*The following is an example of a disclaimer that was written by an attorney as an attachment to Form LM-30. Legacy Professionals LLP has no position on this disclaimer. We strongly recommend you discuss your individual situation with your legal counsel.*

**Disclaimer Example**

The transactions, dealings and interests that are detailed in the attached Form LM-30 represent my good faith effort to reconstruct the reportable occurrences for the period of January 1, 2004 to December 31, 2004. Accurate records of reportable occurrences were not kept for the 2004 fiscal year, and some or many items may have been unintentionally omitted. If, in the future, it comes to my attention that there exists a transaction, dealing, or interest that should have been reported for the period of January 1, 2004 to December 31, 2004, I will immediately file an amended Form LM-30.

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Signature

Date

*The information in this release is current as of June 14, 2005. As always, it is our goal to keep you informed, and specifically, in this case, we recommend you discuss your individual situation and filing status with your attorney. We will continue to keep you informed when and if significant changes or updates occur. Please contact us if you have any questions or need any additional information.*