

Legacy Advisor

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LABOR ORGANIZATIONS

OLMS Grants Grace Period for Form LM-30 Filers and Posts 87 FAQs on its Website

As stated in our *News Flash 06-2*, the Department of Labor (DOL)'s Office of Labor-Management Standards (OLMS), on March 7, 2006, posted on its website extensive additional Frequently Asked Questions (FAQs) about Forms LM-10 and LM-30. Although the DOL stated that it has no authority to grant extensions of the statutory filing deadlines, it will not take any enforcement action until May 15, 2006 to compel the filing of delinquent Forms LM-10 and LM-30. This applies to 2005 filings with a due date of March 31, 2006.

The FAQs and the answers posted on the website are a must read for all individuals and organizations required to report information on an LM-10 or an LM-30. Some of the questions we thought were worth highlighting are listed below. Due to space limitations and to the fact that many of the answers are pages long, we list only the question and excerpts of the answer. The full list of questions and answers are available on the DOL's website. We encourage all

readers to read the FAQs on the website and let us know if you have any questions.

Q26. From time to time, a law firm pays for certain costs that are then billed to the client union. For example, a meal may be provided for a meeting that takes place to prepare for or engage in collective bargaining or to prepare for or conduct arbitration over a grievance under a collective bargaining agreement. Is this a transaction that should be reported on Form LM-10 if a union officer is a recipient of the meal? "The law firm would not owe a report if it is reimbursed by the client union within the same fiscal year. If the payment is made near the end of the fiscal year, the law firm would not owe a report if it is reimbursed promptly, even if the reimbursement occurs in the next fiscal year..."

Q32. Must an employer file a Form LM-10 for donations to a union scholarship fund? The answer in general is no.

Q35. Are employee benefit plan trustees who are appointed by a union considered to

continued on page 3

Legacy News

We are pleased to announce that Legacy Professionals LLP has joined Polaris International, a select group of 200 independent chartered and certified public accounting firms located throughout the United States and around the world. Polaris was formed for the purpose of sharing expertise, information, and techniques for the benefit of all member firms and their clients.

Only firms who can meet the demanding standards of Polaris International are permitted to become members. Firms must maintain the highest of standards in such areas as organizational structure, professional personnel, technical expertise, and others. We are proud of our membership and our commitment to professional excellence. Visit our website for further information on Polaris.

In other Firm news, we have launched a new and improved website. Visit www.legacycpas.com to check it out. We will continue adding links to the Labor Organizations Resource page, where you can count on quick access to information you need to stay current. Let us know if you want any website links added to this section.

Chicago Partner, Bob Cann, CPA represented the Firm at the AFL-CIO Lawyers Coordinating Committee Midwest Regional Meeting on Tuesday March 7 at the Drake Hotel. Bob, along with co-presenters spoke about the LM-30 reporting requirements.

As a reminder, our 2006 Rates and Limits Release is posted on the Legacy home page, as is a link to our Annual Tax Releases. Visit the site to bookmark for future use or to print the releases.

Please let us know if you have questions or need additional information on any of the topics we cover in this issue or otherwise.

This issue was edited by Ann Kellen, CPA. Ann is based out of our Minnesota office and can be reached at akellen@legacycpas.com.

On the Inside...

DOL Audit Activity	2
Form 999 Update	2
Election Year Reminder for PACS	4

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DOL Audit Activity



Ann Kellen, CPA

The Department of Labor's Office of Labor-Management Standards (OLMS) has the authority to conduct audits of labor unions to determine if they are complying with the law. The number of union audits has gone up significantly from 250 in 2003 to 600 in 2005 and will most likely continue to increase. An audit generally focuses on the financial records of the union for one year. The DOL agent will also interview union officers and employees, read minutes of general membership and executive board meetings, and review any Forms LM-30 filed by union officers and employees. One area of DOL's concern is a union's failure to keep sufficient records.

The DOL Fact Sheet: *LMRDA Recordkeeping Requirements for Unions*, states "unions must maintain

financial records and other related records that clarify or verify any report filed with the OLMS." These records must be kept for five years after the report is filed. In addition to records used in the normal course of business, additional records should be maintained that help explain a transaction, such as credit card statements and itemized receipts for each credit card charge as specified in the fact sheet. The nature and purpose of each expenditure must be sufficiently described, not just the amount.

With audits occurring more frequently, it is best to make sure you maintain the proper documentation contemporaneously. It can be very difficult to reproduce the required records later. Let us know if you need assistance or if you have any questions.

By Ann Kellen, CPA, Minnesota office
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Form 990 Update



Rose Doherty, CPA

On February 1, 2006, the IRS released the revised 2005 Form 990 for tax-exempt organizations.

Not only is the new form two pages longer than the 2004 return, the form now includes new questions about compensation and benefits for current and former officers, directors, trustees, and senior staff. It also now includes a question about whether an organization has a written conflict of interest policy (see our article in *Legacy Advisor, Not For Profit*

Organizations Summer 2005, Issue No. 05-2 addressing conflict of interest policies).

As you know, the IRS has recently focused on identifying and halting abuses by tax-exempt organizations such as excessive compensation and benefits to officers and insiders. The new form is reflective of the IRS's concerns.

Part V of the form is now two separate sections; one for current officers and one for former officers. The section

on current officers includes new questions on how many officers are permitted to vote at board meetings, whether any listed officers are related through family or business relationships and whether listed officers receive compensation from any other related organization. Information regarding compensation and benefits (including loans and advances) of former officers must be reported.

The form also includes a new question on whether the organization maintains a foreign office or has a financial account in a foreign country.

Although these changes are relatively minor for 2005, a major revision of Form 990 is still in the works. Significant changes are expected to be made, but the publication date for those changes is unknown.

Let us know if you have any questions.

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continued from page 1



Donna A. Hubert, CPA

be union representatives? “Yes. An individual appointed by a union to serve on the board of trustees of a Taft-Hartley plan is a “union official” for purposes of the reporting requirements.”

Q38. Union employees who perform exclusively clerical or custodial services are not required to report employer payments on the Form LM-30. Must payments to

such employees be reported on Form LM-10? The answer in short is yes.

Q40. Is a meal purchased by an investment manager for the spouse of a union officer required to be reported on a Form LM-10 by the investment manager? The answer is no. But, under certain circumstances, however, a payment to a union officer's spouse may be considered an “indirect” payment to the union officer. In either case, the value of the item received is reportable by the union officer on Form LM-30.

Q41. An investment manager currently engaged by a trust in which Union X is interested, sends a fruit basket worth \$300 to that pension trust (not to an individual), and the fruit basket is shared by the pension trust's employees. Is the investment manager required to report the amount on a Form LM-10? Is the answer different if the basket was sent to the Executive Director of Investments of the pension trust and he is not a union employee, union officer or union representative? The answer is, “Ordinarily, a gift or payment to a lawfully constituted pension or welfare plan will not be reportable on Form LM-10 because the reporting requirement applies only to payments to a labor organization or its officials. Under the facts presented, the employer sending the gift basket would not incur a reporting obligation even where the pension or welfare plan subsequently gives the gift to a union official. In contrast, an employer who sends four gift certificates worth \$300 each to a plan with four trustees, for example, will be considered to have made indirect payments to union officials and must file a Form LM-10.”

Q59. If an employer paid amounts that are otherwise reportable on a Form LM-10 but which are subsequently

repaid by the recipient within the same year, must those amounts be reported on a Form LM-10? No. Similar to Q26, employers need not report gifts that are rejected and returned, or vacations, hospitality items, and payments that are promptly reimbursed by the recipient.

Q61. An employer hosts a large reception and invites more than a thousand attendees of an educational conference. Many of the attendees are union officials and many are not. The employer pays for carving stations, an open bar, musical entertainment, and the rental of the hall. How should the employer track and report this event? This answer is two pages long, but in general, with regard to widely-attended gatherings, an employer does not have to track or disclose the cost if the employer spends no more than \$20 per attendee or the employer holds up to two gatherings that cost between \$20 and \$125 per attendee. Consequently, a union officer or employee that attends one or two such gatherings would not report the value on Form LM-30 even if other things of value have been received from the same employer.

Q65. Under what circumstances would a payment to a charitable event run by a union be reportable on Form LM-10? Payments of cash or gifts of goods made to a tax-exempt organization are generally not reportable on Form LM-10. See Q62 on the website for further explanation. However, if the cash or gifts are provided to a union, the payment is reportable on Form LM-10, even where the union ultimately directs the donations to a tax exempt organization.

Finally, **Q76** lists the differences between what must be reported on the Form LM-30 and the Form LM-10.

To review the complete FAQs and responses, visit the OLMS website at http://www.dol.gov/esa/regs/compliance/olms/lm10_faq.htm

General information about the Forms LM-30 and LM-10 can be found at www.dol.gov/esa/olms_org.htm.

We will continue to keep you informed. If you have any specific questions or need additional information, please contact us.

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Election Year Reminder for PACs

Many labor organizations have set up political organizations funded exclusively by segregated dues money, commonly referred to as separate segregated funds or PACs.

These PACs are state and local political organizations. As such, they cannot make contributions in connection with federal elections. If a federal contribution is made, it must be returned. This restriction applies even when the PAC is making a contribution to another PAC. A federal PAC is prohibited from accepting contributions from a labor organization or its related separate segregated fund.

In order to avoid any problems, PACs should make sure a contribution is allowable before it is made. Contributions can be made only to state or local candidates and organizations whose

contributions are limited to ones that your organization is allowed to make.

Since this is an election year, political organizations required to file Form 8872 must do so monthly or quarterly. If the organization has or expects to have contributions or expenditures over \$50,000 for the calendar year, the form must be filed electronically.

A chart with the quarterly and monthly filing deadlines for Form 8872 is available at <http://www.irs.gov/charities/political/article/0,,id=152509,00.html>

Let us know if you have any questions or need any guidance.

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