

Legacy Advisor

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LABOR ORGANIZATIONS

Update on Forms LM-30 and LM-10

To recap the barrage of information of late, the Labor-Management Reporting and Disclosure Act requires union officials and employees to file Form LM-30, *Labor Organization Officer and Employee Report* and employers to file Form LM-10, *Employer Report* annually with the Department of Labor (DOL). The purpose of these forms is to identify possible conflicts of interest.

Union officers and employees must report financial transactions with and interests in an employer whose employees the union represents or seeks to represent; a business that does a significant portion of its business with such employers; businesses that do business with the labor organization or a trust fund related to the labor organization; and/or any other business where a potential conflict of interest may possibly exist. Individuals are also required to report such transactions of their spouse and minor children.

Reportable financial transactions include anything resulting in either direct or indirect economic benefit to the officer, employee, spouse,

or minor child from any of the above. Economic benefit can be in the form of income or other item of value, such as meals or entertainment. Some exceptions apply for transactions valued at \$25 or less.

In general, the DOL has clarified that officers or employees of a union who receive anything of value from a related trust, including expenses that are reimbursed by a fund, are reportable on Form LM-30.

This year the DOL has taken steps to increase enforcement of the LM-30 reporting requirement including a grace period for first time filers until August 15, 2005.

The Office of Labor Management Standards (OLMS) issued an OLMS-NEWS release dated Monday, August 29, 2005. The release included a Notice of Proposed Rulemaking to revise the Form LM-30 and its instructions. According to the OLMS, the proposed rule would address three problems (as stated by the OLMS in the release):

■ "Clarifying the instructions by explaining key terms used in the

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Legacy News

Keeping on the forefront of change or pending change is essential in our industry. The last few months have been no exception and in fact, have been filled with so many developments; it is a full time job keeping up with them. We are doing our best to keep you informed about the Forms LM-2, LM-30, LM-10 and other relevant issues and will continue to do so. Our News Flash, *Important Update on Forms LM-30 and LM-10* was sent out as soon as we were reasonably sure the information was complete and then of course, it changed again! We provide an update in this issue.

As always, please let us know if you have any questions or concerns. Additionally, we are eager to provide services to your friends and associates. If you think we can help them, please let us know.

This issue was edited by Chicago Partner, Donna A. Hubert, CPA. Donna can be reached at dhubert@legacypcpas.com if you have any questions or comments.

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Obtaining an Electronic Signature



Robert Cann, CPA

The revised Form LM-2 is required, with limited exceptions, to be filed electronically. In order to electronically file the form, the responsible officers, the president and treasurer or corresponding principal officers, will each need to obtain an electronic signature. The signatures are obtained through the purchase of an "ACES certificate" available electronically from Digital Signature Trust. (http://www.digsigtrust.com/federal/aces_public_1.html).

Two types of certificates are available -- an individual certificate and a business certificate. The business certificate allows an entity to register multiple users at one time and is set up for organizations which require five or more signatures. Either the individual or business certificate is acceptable for signing the LM-2. The information required for both the individual or business certificate is very similar. Both require individual social security and driver's license numbers. The main differences between the two certificate applications are:

■ **When applying for an individual certificate, the applicant must provide information on a credit card issued in the same name and address as the applicant. This information is used for identification purposes only. Individual credit card information is not required to obtain a business certificate.**

■ **When applying for a business certificate, the first individual applying must provide all of the business information and sign off as the responsible party for that information. Individuals who subsequently apply on that business certificate must rely on the organization**

information already in the system. All applicants must submit a notarized form authenticating their identity and an acknowledgement of the certificate application signed by the employer.

The digital certificate acts as an identity card for the user and contains the user's public key. Each user is assigned a pair of electronic keys which are linked:

- **a private key, which the user should keep secret; and**
- **a public key, which is published and available to all**

Using the private key, the sender scrambles the information before sending it. The receiver, using the corresponding public key, unscrambles the information once it is received.

The cost is \$35 for the individual certificate and \$119 for the business certificate. The certificates are good for two years and may be renewed at no cost at the end of the two-year period.

The application process requires a Visa, MasterCard or American Express credit card to remit the required fee. The certificate is mailed to the applicant within 5-7 working days after submission. The certificate is provided in an electronic file form which is installed on a personal computer. Once installed, a series of pop-up menus will walk the user through the signing process. A green check mark indicates that the form has been signed. If any data in the form is changed after the signature is applied, the signature will disappear and must be re-applied.

Please contact us if you have any questions, would like to get a head start on your union's filing requirements, or if you need our assistance.

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New Schedules for Reporting Receivables and Payables on Form LM-2

Two new schedules required on Form LM-2 for years ending June 30, 2005 are Schedule 1, *Accounts Receivable Aging Schedule*, and Schedule 8, *Accounts Payable Aging Schedule*. While Statement A, *Assets and Liabilities*, of Form LM-2 has always had lines for both accounts receivable and accounts payable, many labor organizations left those lines blank. Labor organizations are now expected to report this information.

Many labor organizations keep their records on the modified cash basis of accounting. This means that revenue is recognized when actually received rather than when earned and expenses are recognized when paid rather than when the obligation is incurred. This method is consistent with the Form LM-2 reporting which is based on cash receipts and disbursements. With the new requirement for reporting accounts receivable and accounts payable as of the end of the fiscal year, organizations will not have to change their accounting method. However, they will now additionally have to determine accounts receivable and accounts payable as of the end of their fiscal year.

Accounts receivables from and payables to a single entity or individual must be individually itemized on Schedule 1 or 8, as appropriate, if the total value is \$5,000 or more and it is at least 90 days past due at the end of the reporting period. All other amounts (those under \$5,000 or less than 90 days past due) are reported in total only. In addition, receivables or payables that were liquidated, reduced or written off during the year must also be reported. If such is the case, Item 15 should be

checked yes and an explanation must be given in Item 69. If the amount is over \$5,000 it must be individually reported. Amounts under \$5,000 are reported in total only.

The 90 days are determined from the date the payment is due. For example, assuming your fiscal year ends on June 30 and you receive a telephone bill for June that is not due until July, that bill is not included as a payable as of June 30. Invoices without due dates are considered payable immediately. Unpaid credit card balances are considered to be payables. Amounts that have not been paid because of a dispute must be included as a payable along with an explanation in Item 69.

The same rules apply when determining accounts receivable. It is unlikely that individual member dues will ever have to be itemized. However there may be instances where a delinquent employer may owe more than \$5,000 and be 90 days past due. In that situation, the exact amount of the delinquency may not be known and an estimate of the delinquent amount may be used.

The information on payables and receivables is normally readily available once the reporting rules are understood. Let us know if you have any questions.

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Form T-1 Requirement Overturned

The Department of Labor's (DOL) revised rules regarding labor union reporting included requiring unions to file an annual Form T-1, *Trust Annual Report*, with the union's Form LM-2 for each significant trust in which the union is interested. The form, which provides information on the trust's financial activity, was required for most related trusts that did not file a Form 5500.

On May 31, 2005, the U.S. Court of Appeals for the District of Columbia Circuit court overturned the new rules regarding Form T-1. The Court determined that requiring general trust reporting did not fall under the Labor Secretary's authority.

On July 15, 2005, the DOL filed for a rehearing to appeal this ruling. For the time being, unions with a June 30, 2005 year end need not be concerned with Form T-1. However, depending on the outcome of the appeal, the Form T-1 requirement may be reinstated.

We will keep you informed of any new developments. If you have any questions, please contact us.

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Update on Forms LM-30 and LM-10

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act and the instructions, and by providing examples of the financial matters that must be reported under each subsection of the Act;

■ **Eliminating exemptions that permit filers to not report financial matters that would otherwise be required to be reported under the Act, and which present the potential of conflicts of interests for union officers and employees;**

■ **Improving disclosures by creating a summary table on the front page of the report, supported by schedules for disclosing 1) the filer's interests, payments, loans, transactions or arrangements, 2) the other party to these financial practices, and 3) the dealings, if any, between the party and the filer's labor organization or the employer whose employees the filer's labor organization represents or actively seeks to represent."**

The DOL has requested comments on the Form LM-30. Comments must be received by the OLMS no later than October 28, 2005. To view the release or for details on how to submit comments, visit the LM-30 NPRM page on the DOL's website at

www.dol.gov/esa/regs/compliance/olms/LM30_NPRMpage.htm

The counterpart to Form LM-30 is Form LM-10, which is filed by employers to report anything of value given to labor organizations, union officials and employees, and labor relations consultants. Reportable transactions do not include wages paid to an employee or certain other payments unrelated to the individual's status in the labor organization. Some exceptions also apply for transactions valued at \$25 or less.

Once all the LM-30's filed by the extended due date are reviewed, the DOL plans to focus on instituting enforcement measures for the Form LM-10. The DOL will likely issue guidance for employers and most probably will announce a grace period similar to the one granted for the LM-30.

We will continue to keep you posted on other changes and updates as they occur. Please let us know if you have any questions.

Contact us at info@legacycpas.com if you'd like to receive Legacy Advisor via our email delivery program, or if you have any comments or questions about this issue. Visit us online at www.legacycpas.com to read past issues of Legacy Advisor or for additional information and articles.



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