

# Legacy Advisor

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## LABOR ORGANIZATIONS

### Changes to Form LM-2 and the New T-1 Form



Bob Cann, CPA

The Department of Labor (DOL) issued the final changes to the Form LM-2 and released the new T-1 Form on October 3, 2003. Since then, we at Legacy Professionals LLP have presented a number of seminars to communicate the changes to our clients.

The new regulations make major revisions to the information required to be reported on the Form LM-2. As a result, the financial information that must be maintained by a labor organization has increased substantially. The following is a brief summary of the major changes. Look for future articles providing more detailed information to assist you with compliance.

#### Effective Date

As originally issued, the changes were to be effective for years beginning on or after January 1, 2004, making March 2005 the earliest the revised Form LM-2 would be filed. On December 31, 2003, U.S.

District Judge Gladys Kessler ruled that unions needed more time to comply with the changes. The injunction delays the effective date of the new regulations by one year. It is possible that the DOL will appeal the ruling but they have not done so as we go to press.

#### Filing Threshold

The DOL has increased the filing threshold for Form LM-2 from \$200,000 to \$250,000.

#### Electronic Filing

One significant change will require the Form LM-2 and all attachments to be filed electronically. It will remain optional for the LM-3 and the LM-4 Forms. With the electronic filing requirement, the use of a "Key" number (digital signature) for president (principal executive officer) and treasurer (principal financial officer) has been added.

A temporary hardship exemption is available for those who have unanticipated technical difficulties while a continuing hardship

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### Legacy News

Welcome to the first issue of *Legacy Advisor*! This issue kicks off Legacy Professionals newest publication designed to communicate important and current issues affecting labor organizations to clients and friends of our Firm. We hope you find each issue informative and interesting. Please feel free to contact us with your ideas and comments. Or, if you would like to submit an article or have a question, please let us know. You can contact Julie Tucek, our Marketing Director, or one of our editors, Donna Hubert, CPA or Bob Cann, CPA. We appreciate your input and look forward to your feedback.

As you know, the new Firm of Legacy Professionals LLP came into existence in January 2003. It's hard to believe it has already been one year. We are pleased to inform you that things are going well! The Firm now consists of 15 partners and 115 professionals in our three offices. We are very pleased to have welcomed two new partners as of January 1, 2004. They are Greg Wallenbecker and Renee Berg Speck.

Legacy's Year End Tax Releases, Annual Rates & Limits Release, and News Flashes are all posted in the Publications section of the Firm's website, [www.legacycpas.com](http://www.legacycpas.com). Please update your laminated 2004 Rates & Limits Release to reflect the Illinois Unemployment Tax wage base change from \$9,000 to \$9,800. This last minute change was announced on 12/29/03 and has been updated on our website. If you would like a hard copy of any of these releases, contact us at [info@legacycpas.com](mailto:info@legacycpas.com).

We sincerely thank you for your continued support of the Firm. 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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**LEGACY**  
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## Federal Election Guidance

During an election year, many organizations want to do everything they can to get their favorite candidate elected. However, there are several restrictions on what a labor organization can and can not do with regard to a candidate running for federal office. The Federal Election Campaign Act prohibits labor organizations from using general treasury funds to make contributions or expenditures in connection with federal elections.



A contribution is defined as anything of value given to influence a federal election. Consequently, both cash and in-kind contributions are prohibited. Directing employees to provide services, paying for expenses incurred by or on behalf of a candidate, and allowing a candidate use of mailing lists are generally in-kind contributions and consequently prohibited.

Labor organizations are allowed to pay for certain communications to their restricted class that are outside the definition of political contributions. The restricted class is made up of members, employees, and their families. In general, communications sent to a labor organization's restricted class may:

- **Expressly advocate the election or defeat of a candidate;**
- **Solicit contributions for the candidate; and**
- **Provide information on how to make a contribution to the candidate, including the address where the contribution should be sent.**

It is very important that such communication is sent only to the restricted class. If the communication is sent to anyone outside the restricted class, such as service providers, it is then considered to be a prohibited political donation.

These costs should not be paid out of a state or local PAC. The expenses should be paid by the labor organization or a federal PAC. A Form 7 must be filed with the Federal Election Commission if the labor organization's total cost for communications exceeds \$2,000.

While the labor organization may ask its members to make contributions to a federal candidate, it may not, under any circumstances, facilitate the collection of contributions. This includes collecting contributions for a candidate, even if the checks are made out to the candidate; selling tickets to a candidate's fundraiser; or distributing envelopes to be used to make contributions to a candidate.

We have listed some general guidelines, however, we recommend you contact us if you need any clarification or guidance to ensure your organization's compliance with the regulations.

*By Donna A. Hubert, CPA  
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## Form 8872 Reminder

Since 2004 is an election year, the Form 8872 must be filed quarterly this year. The quarterly reports are due April 15, July 15, October 15, 2004, and January 31, 2005. In addition to the quarterly filings, political organizations must file a post-election report due December 2, 2004, 30 days after the general election.

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## Donations to 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 and 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.

In order to avoid any problems, make sure a contribution is allowable before it is made. A federal PAC is prohibited from accepting contributions from a labor organization or its related separate segregated fund. Contact the PAC and tell them about your organization. Verify that they can accept the contribution from your PAC before it is made. Let us know if you have any questions or need any guidance.

## Preventing and Detecting Fraud



Lack of adequate internal controls and high-tech accounting software makes it easier for individuals to commit fraud. We regularly alert our clients of the potential for fraud and try to create an awareness of possible strategies for lowering the risk of defalcations. In addition, the Financial Accounting Standards Board (FASB) has recently issued

Statement on Auditing Standards No. 99, "Consideration of Fraud in a Financial Statement Audit" (SAS 99), which replaces SAS 82. Under SAS 99, audits of periods beginning on or after December 15, 2002 must implement and document the following auditing procedures required by your CPA firm that will help to prevent and detect fraud. The auditors must:

1. Hold a brain-storming session about possible fraudulent activities in the planning stages of an audit.

2. Obtain information necessary to identify risks of misstatement due to fraud.
3. Identify risks that may result in misstatement due to fraud.
4. Assess risks in light of organization's programs and controls.
5. Respond to results of assessment.
6. Evaluate audit evidence.
7. Communicate with management, audit committee, and others about concerns/findings.
8. Document their consideration of fraud.

In addition to the above eight procedures that we will perform in an audit, we can evaluate your systems and procedures, provide internal control reviews, and provide a variety of other services designed to minimize exposure to, and losses from fraud. Please contact us if you have any questions or need any assistance in this area.

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exemption may be requested by those who claim undue burden or expense for the electronic filing.

### **Functional Activities Categories**

The most significant change to the LM-2 Form is the requirement that disbursements be allocated by functional activities categories. The five functional categories, which are defined in the Form LM-2 instructions, are:

1. Representational Activities
2. Political Activities and Lobbying
3. Contributions, Gifts and Grants
4. General Overhead
5. Union Administration

In addition, filers must make a good faith estimate of the portion of each officer's and employee's time spent in each of the five categories.

### **Major Receipts and Disbursements**

Certain categories of major receipts and disbursements must be individually identified and reported on Form LM-2. A major receipt or disbursement is an individual receipt or disbursement from a single entity or individual of \$5,000 or more, or aggregate receipts or disbursements from a single entity or individual that equal or exceed \$5,000. Major disbursements are determined by functional category. There are also new rules for credit cards. The company that actually provided the service will be used to determine a major disbursement, not the credit card company.

### **Form T-1, Trust Annual Report Form**

The new Form T-1, Trust Annual Report, must be filed with Form LM-2 for each trust in which the labor organization is interested. In order to be considered a "trust in which a labor organization is interested in,"

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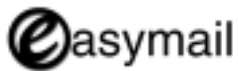
specific requirements must be met. The T-1 has reporting similar to the LM-2 in that it is cash based, includes officer and employee information, and reporting of major receipts and disbursements. The T-1 is based on trust's year end. This new form is the sole responsibility of the Union President and Treasurer.

We are available to work with your organization in order to make sure all of the

required information is being properly captured and classified. Each labor organization will need to make adjustments based on its individual situation. Please contact us if we have not already begun working with you to determine the best way to make the necessary changes.

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