



Breaking News: LM-30 Filing Deadline Deferred to August 15, 2005

Topic: **LM- 10 REPORTING REQUIREMENTS FOR TRUST FUNDS**

EXECUTIVE SUMMARY: THE DEPARTMENT OF LABOR, OFFICE OF LABOR MANAGEMENT STANDARDS (OLMS), HAS RECENTLY RESURRECTED REPORTING REQUIREMENTS (ON FORM LM-30), FOR UNION OFFICERS AND EMPLOYEES CONCERNING THE RECEIPT OF ANYTHING OF VALUE FROM ANY “EMPLOYER” OR “BUSINESS” WITH WHOM THE UNION OR A RELATED TRUST FUND DOES BUSINESS. AS PART OF THIS OVERALL PROCESS “EMPLOYERS” (INCLUDING TRUST FUNDS WITH EMPLOYEES) ARE REQUIRED TO FILE A CORRESPONDING FORM LM- 10. OLMS HAS RECENTLY ISSUED GUIDANCE FOR TRUST FUNDS. FOR THE LATEST INFORMATION, SEE OLMS NEWS NUMBER 07-05 (ATTACHED), OR VISIT THE OLMS WEBSITE (SEE LINK BELOW).

THE GUIDANCE PROVIDED TO DATE APPEARS IN Q&A FORMAT AND DEALS WITH A VARIETY OF QUESTIONS APPLICABLE TO TRUST FUNDS AND THEIR SERVICE PROVIDERS. IT IS IMPORTANT TO NOTE THAT EVEN SITUATIONS THAT MAY REPRESENT INAPPROPRIATE ACTIVITIES UNDER OTHER ASPECTS OF ERISA AND/OR TAFT HARTLEY (E.G. A BENEFIT TRUST’S PAYMENT FOR GREENS FEES FOR A CHARITABLE GOLF OUTING) MUST BE REPORTED. IT IS OUR UNDERSTANDING THAT THE REPORTING REQUIREMENTS MAKE NO EXCEPTION FOR SUCH ITEMS, EVEN THOUGH REPORTING THEM COULD GIVE RISE TO ADDITIONAL ENFORCEMENT ACTIONS BY THE GOVERNMENT.

THE INTERPRETATION GIVEN BY THE OLMS THAT EMPLOYEE BENEFIT PLANS THAT HAVE NO EMPLOYEES AND, THEREFORE ARE NOT “EMPLOYERS” NEVERTHELESS ARE “BUSINESSES” FOR PURPOSES OF LM-30 REPORTING APPEARS TO BE INCONSISTENT WITH THE POSITION THAT TRUSTS WITHOUT EMPLOYEES ARE NOT REQUIRED TO REPORT EXPENSE REIMBURSEMENTS. THESE AND OTHER INTERPRETATIONS HAVE BEEN ISSUED AS PART OF A CONSTANTLY EVOLVING, RATHER THAN CAREFULLY CONCEIVED, APPROACH TO RULE MAKING AND BEG FOR AN EXPLANATION AS TO WHY THIS RENEWED COMPLIANCE EFFORT FOR A PROGRAM THAT HAS REMAINED DORMANT FOR DECADES MUST PROCEED AT BREAKNECK SPEED. ALTHOUGH IT IS EXPECTED THAT THE COMPLIANCE DATES FOR FILING THE LM-10 (WHICH FOR CALENDAR YEAR ORGANIZATIONS HAVE ALREADY PASSED), WILL BE EXTENDED, THE NCCMP IS CONCERNED THAT THE LACK OF COHERENT REPORTING REQUIREMENTS AND A CLEARLY ENUNCIATED PROCESS FOR IMPLEMENTATION LEAVES THE PARTIES WHO ARE EXPECTED TO REPORT IN A QUANDRY OVER WHAT IS EXPECTED OF THEM. WE WILL CONTINUE TO WORK WITH OLMS TO SECURE CLARIFICATION OF THESE ISSUES AND ENCOURAGE THEM TO ADOPT REASONABLE RULES GOING FORWARD.

PURPOSE: INFORMATIONAL

CATEGORY: REGULATORY / REPORTING

ISSUER: DEPARTMENT OF LABOR –
OFFICE OF LABOR MANAGEMENT STANDARDS (OLMS)

AUDIENCE: TRUSTEES, PROFESSIONAL ADVISORS, SERVICE PROVIDERS

SEND COMMENTS TO: multi-elert@nccmp.org

REFERENCE: VOL. V, ISSUE 2

FOR MORE INFORMATION: **DOL GUIDANCE AT: OLMS NEWS NUMBER 07-05 (COPY ATTACHED) OR VISIT THEIR WEBSITE AT:**
http://www.dol.gov/esa/regs/compliance/olms/LM30_LM10_Trusts_Info.htm

URGENT! DOL ISSUES GUIDANCE CONCERNING TRUST FUND ISSUES RELATED TO LM-10 AND LM-30 FILING REQUIREMENTS

AS YOU ARE AWARE, THE DEPARTMENT OF LABOR RECENTLY RESURRECTED THE REQUIREMENT THAT **UNION OFFICERS OR EMPLOYEES** MUST FILE AN LM-30 FORM IF THEY (OR THEIR SPOUSE OR MINOR CHILD) RECEIVED ANYTHING OF MORE THAN *DE MINIMIS* VALUE (\$25) FROM ANY “EMPLOYER” OR “BUSINESS” WITH WHOM THE UNION (OR A TRUST FUND RELATED TO THE UNION) HAS A RELATIONSHIP. **THE DEADLINE FOR FILING AN LM-30 FOR 2004 IS NOW AUGUST 15, 2005**. FILING THE LM-30 IS THE RESPONSIBILITY OF THE INDIVIDUAL UNION OFFICER OR EMPLOYEE AND NOT THE RESPONSIBILITY OF THE INDIVIDUAL’S UNION OR TRUST FUND.

FOR PURPOSES OF LM-30 AND LM-10 FILING, THE DEPARTMENT OF LABOR IS APPLYING AN EXCEEDINGLY BROAD DEFINITION OF “EMPLOYER” WHICH INCLUDES NOT ONLY SIGNATORY EMPLOYERS, BUT VIRTUALLY ANY OTHER ENTITY THAT HAS EMPLOYEES, INCLUDING ACCOUNTING FIRMS, ACTUARIAL CONSULTING FIRMS, INVESTMENT MANAGEMENT AND CONSULTING FIRMS, AND LAW FIRMS. THE DEPARTMENT OF LABOR ALSO CONSTRUES A TRUST FUND THAT HAS EMPLOYEES TO BE AN EMPLOYER FOR PURPOSES OF LM-30 AND LM-10 FILING. WHILE THE DEPARTMENT OF LABOR TAKES THE POSITION THAT A TRUST FUND WITHOUT EMPLOYEES IS NOT AN EMPLOYER, IT DOES CONSIDER SUCH ENTITIES “BUSINESSES”, WHICH IMPACTS THE LM-30 REPORTING REQUIREMENTS FOR UNION OFFICERS AND EMPLOYEES.

ON JUNE 22, 2005, THE DEPARTMENT OF LABOR ISSUED FURTHER GUIDANCE REGARDING THE LM-30 AND LM-10. THIS GUIDANCE PERTAINED ALMOST EXCLUSIVELY TO ISSUES RELATING TO TAFT-HARTLEY TRUST FUNDS. IN BRIEF, THE DEPARTMENT CONCLUDED THAT IF A TRUSTEE WHO IS A UNION OFFICER OR EMPLOYEE (OR A SPOUSE OR MINOR CHILD OF AN OFFICER OR EMPLOYEE) RECEIVES ANYTHING OF VALUE FROM A BUSINESS, INCLUDING A TRUST FUND, IT MUST BE REPORTED ON THAT INDIVIDUAL’S LM-30. **THIS INCLUDES REIMBURSEMENT OF TRUSTEE EXPENSES FOR SUCH THINGS AS TRAVEL AND MEALS OR ANY OTHER EXPENSES PAID DIRECTLY BY THE TRUST FUND**, AS WELL AS ANYTHING OF MORE THAN *DE MINIMIS* VALUE RECEIVED FROM A VENDOR TO THE TRUST FUNDS, INCLUDING MEALS OR ENTERTAINMENT SUCH AS GOLF OUTINGS OR TICKETS TO SPORTING EVENTS.

“EMPLOYERS” ARE OBLIGATED TO FILE LM-10 FORMS DISCLOSING ANY SUCH PAYMENTS TO UNION OFFICERS AND EMPLOYEES. TRUST FUNDS THAT ARE EMPLOYERS MUST ALSO FILE FORM LM-10s. HOWEVER, A TRUST FUND WITH NO EMPLOYEES IS NOT OBLIGATED TO FILE AN LM-10.

AS A GENERAL RULE, THE LM-30 A UNION OFFICER OR EMPLOYEE FILES FOR ANY FISCAL YEAR MUST BE FILED WITHIN 90 DAYS OF THE END OF THAT YEAR (TYPICALLY BY MARCH 31). HOWEVER, **FOR 2004, THE DEPARTMENT HAS EXTENDED THAT DEADLINE TO AUGUST 15, 2005**. ESSENTIALLY, THE OLMS HAS SAID THAT IF A UNION OFFICER OR EMPLOYEE VOLUNTARILY FILES AN LM-30 FORM

FOR 2004 BY THE EXTENDED DEADLINE, IT WILL NOT GO BACK AND REVIEW PRIOR YEARS. HOWEVER, IF A UNION OFFICER OR EMPLOYEE DOES NOT FILE AN LM-30 FOR 2004 BY THIS DEADLINE, THE DEPARTMENT HAS IMPLIED THAT IT MAY GO BACK AND REVIEW PREVIOUS YEARS. COPIES OF THE FORM AND INSTRUCTIONS ARE AVAILABLE ON THE DOL'S WEBSITE. WE HAVE PROVIDED THE LINK BELOW.

IF YOU BELIEVE THAT IT IS NECESSARY FOR YOU, AS AN INDIVIDUAL, TO FILE A FORM LM-30, YOU SHOULD CONTACT YOUR COUNSEL. AGAIN, REMEMBER THAT THE LM-30 MUST BE FILED BY THE INDIVIDUAL UNION OFFICER OR EMPLOYEE, AND IN THE CASE OF A UNION OFFICER OR EMPLOYEE WHO RECEIVES ANYTHING OF VALUE FROM A RELATED TRUST FUND, HIS OR HER LM-30 MAY INCLUDE A REPORT ON AMOUNTS PAID OR REIMBURSED BY THAT TRUST FUND. A COPY OF THE DEPARTMENT OF LABOR'S QUESTIONS AND ANSWERS ON THIS TOPIC ARE AVAILABLE ON THE LINK BELOW FOR YOUR INFORMATION AND REVIEW.

TRUST FUNDS WHO ARE EMPLOYERS SHOULD CONTACT THEIR COUNSEL TO REVIEW THEIR POSSIBLE LM-10 REPORTING OBLIGATIONS. IN ADDITION, ALL TRUST FUNDS MAY BE REQUESTED TO PROVIDE INFORMATION TO TRUSTEES CONCERNING AMOUNTS THAT SHOULD BE REPORTED ON THE TRUSTEES' LM-30.

IN THE INFORMATION IT HAS DISTRIBUTED, THE DEPARTMENT OF LABOR HAS ACKNOWLEDGED THAT UNION OFFICERS AND EMPLOYEES REQUIRED TO FILE FORM LM-30S AND TRUST FUNDS REQUIRED TO FILE FORM LM-10S MAY NOT HAVE MAINTAINED RECORDS DURING 2004 IN A MANNER THAT ALLOWS THEM TO COMPLETE THE FORMS WITH TOTAL ACCURACY. IN THIS REGARD, YOU SHOULD NOTE THAT THE DEPARTMENT HAS CLEARLY STATED THAT THE FORMS MUST BE FILED NEVERTHELESS BASED ON GOOD FAITH ESTIMATES DETERMINED THROUGH WHAT INFORMATION COULD BE COMPILED FROM THE FILER'S EXISTING RECORDS.

WHILE THE INFORMATION ISSUED BY THE DEPARTMENT OF LABOR HAS ANSWERED SOME QUESTIONS, A NUMBER OF ISSUES RELATING TO LM-10 AND LM-30 FILINGS OBLIGATIONS CONTINUE TO BE EXTRAORDINARILY CONFUSING OR SUBJECT TO A WIDE RANGE OF INTERPRETATION. MUCH OF THIS CONFUSION CAN BE ATTRIBUTED IN PART TO THE FACT THAT THE DEPARTMENT ONLY RECENTLY ATTEMPTED TO ADDRESS THE SPECIAL ISSUES RELATED TO TRUST FUNDS. IN RECOGNITION OF THIS FACT, THE NCCMP WELCOMES YESTERDAY'S ANNOUNCEMENT BY THE DEPARTMENT OF LABOR OF A FURTHER EXTENSION OF THE LM-30 FILING DEADLINE TO AUGUST 15, 2005 TO ALLOW TIME FOR ADDITIONAL CLARIFICATION OF THE REPORTING RULES. MOREOVER, THE DEPARTMENT HAS YET TO GIVE AN EXTENSION FOR LM-10 FILINGS, ALTHOUGH WE UNDERSTAND THAT AN ANNOUNCEMENT OF AN EXTENSION BY THE DEPARTMENT MAY BE ISSUED IN THE VERY NEAR FUTURE.

THE INFORMATION ISSUED BY THE DEPARTMENT OF LABOR CAN BE FOUND ON ITS WEBSITE, ALTHOUGH THE INFORMATION IS NOT GROUPED IN ONE LOCATION, AND A NUMBER OF INDIVIDUALS HAVE REPORTED THAT SOME INFORMATION HAS PROVEN TO BE DIFFICULT TO FIND. THE FOLLOWING IS A LINK TO MATERIALS ON THE WEBSITE INCLUDING DOWNLOADABLE VERSIONS OF FORM LM-30 AND FORM LM-10 WITH INSTRUCTIONS FOR COMPLETING EACH FORM, RELATED FACT SHEET AND "TRUSTS AND FORM LM-30 AND FORM LM-10," WHICH INCLUDES HELPFUL INFORMATION IN A Q&A FORMAT.

OLMS WEBSITE:

[HTTP://WWW.DOL.GOV/ESA/REGS/COMPLIANCE/OLMS/LM30_INFORMATION.HTM](http://www.dol.gov/esa/regs/compliance/olms/lm30_information.htm)

IN VIEW OF THE IMPENDING FILING DEADLINE FOR FORM LM-30 AND THE POTENTIALLY SERIOUS CONSEQUENCES FOR INTENTIONALLY FAILING TO FILE OR INTENTIONALLY FILING AN INCOMPLETE OR INACCURATE FORM, UNION OFFICERS AND EMPLOYEES SHOULD IMMEDIATELY CONTACT COUNSEL IF YOU HAVE NOT ALREADY DONE SO TO DETERMINE YOUR PERSONAL OBLIGATIONS TO FILE. LIKewise, TRUST FUNDS THAT HAVE NOT YET MADE A DETERMINATION OF THEIR REQUIREMENTS TO FILE AN LM-10 SHOULD ALSO CONSULT YOUR COUNSEL TO DETERMINE WHETHER YOUR FUND IS REQUIRED TO DO SO AND, IF SO, WHEN.

AN OUNCE OF PREVENTION:

AS A COMMON COURTESY TO YOUR CLIENTS AND SIMPLY AS A GOOD BUSINESS PRACTICE, LM-10 FILERS ARE ENCOURAGED TO TAKE INTO CONSIDERATION THE FILING DEADLINES FOR THE LM-30 TO IDENTIFY AND COMMUNICATE YOUR INTENT TO FILE, AS WELL AS THE CONTENTS OF YOUR LM-10 FILING TO ANYONE WHO WILL BE LISTED ON YOUR LM-10 IN ADVANCE OF THE LM-30 FILING DATES TO AVOID POTENTIAL ERRORS AND / OR OTHER DISCREPANCIES THAT COULD RESULT IN UNNECESSARY AND POTENTIALLY EMBARRASSING COMPLICATIONS FOR EVERYONE INVOLVED.

AS WITH ALL MATTERS CONCERNING INTERPRETATIONS OF THE LAW AND / OR REGULATIONS APPLICABLE TO MULTIEMPLOYER PLANS, PLAN TRUSTEES AND SPONSORS SHOULD RELY ON THEIR OWN ATTORNEYS AND OTHER PROFESSIONAL ADVISORS FOR ADVICE ON THE MEANING AND APPLICATION OF THE FOREGOING FOR THEIR PARTICULAR FUNDS.

IF YOU HAVE QUESTIONS ABOUT THE NCCMP, OR ABOUT THIS OR OTHER ISSUES OF MULTI-ELERT, PLEASE CONTACT US BY PHONE AT (202) 737-5315, OR BY E-MAIL AT NCCMP@NCCMP.ORG.



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TRUSTS AND FORM LM-30 AND FORM LM-10

The Office of Labor-Management Standards has received numerous questions related to the circumstances in which payments from a trust in which a union is interested are reportable on Form LM-30, Labor Organization Officer and Employee Report, and on Form LM-10, Employer Report.

A trust in which a labor organization is interested is defined in section 3(l) of the Labor-Management Reporting and Disclosure Act (LMRDA) as a "trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries." Trusts can be banks, credit unions, joint funds, also called Taft-Hartley funds, strike funds, building funds, building corporations, training funds, payroll service providers, and numerous other organizations.

Following is a discussion of each of the three parts of Form LM-30 and when each part would have to be completed by a union officer or employee to report payments from a trust.

Trust-Related Reporting under Part A of Form LM-30

Part A would not be used for reporting payments from a trust unless an officer's or employee's union represents or seeks to represent employees of the trust. A union officer or employee must report in Part A interests in, transactions with, or income or other benefits (including reimbursed expenses) from, an employer whose employees the filer's union represents or actively seeks to represent. If this condition is met, the union officer or employee must report any such payments unless they are covered by the exclusions in the [instructions to Part A of Form LM-30](#). One of the exclusions is for payments and benefits received as a bona fide employee of the employer (that is, the trust). Therefore, any officer or employee of the union who is also an employee of the trust (a trustee is not an employee) would not have to report in Part A any payments received as a bona fide employee of the trust.

There is also a de minimis exception. Gifts that otherwise are reportable do not have to be reported if they (1) have a value of \$25 or less, (2) are sporadic or occasional, and (3) are given under circumstances unrelated to the recipient's status in a labor organization.

Trust-Related Reporting under Part B of Form LM-30

Part B is used for reporting interests in, transactions with, or income or other benefits (including reimbursed expenses) from, a business (1) a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with an employer whose employees the filer's union represents or actively seeks to represent or (2) any part of which consists of buying from, selling or leasing to, or otherwise dealing with the union or with a trust in which the union is interested.

In order for a trust to be within the scope of Part B, it must meet two conditions:

- 1) The trust must be a business

While it cannot be categorically stated that all trusts are businesses, there is a strong presumption that by their nature most trusts are businesses. In light of the commercial activities engaged in by many such trusts, their status as "business[es]" seems apparent. The same conflict of interest problems presented by payments from an ordinary business to a union official are presented by payments from a trust

2) The trust must deal with the union or deal in substantial part with an employer whose employees the union represents or actively seeks to represent

Trusts typically engage in numerous "dealing[s]" with their related unions, which include receiving financial support directly from the union or from employers obligated to fund the trust under collective bargaining agreements negotiated by the union. Joint activities between the union and the trust, as well as any commercial activities would also indicate "dealings." Based on OLMS' current understanding of the nature and activities of trusts in which unions are interested, OLMS has concluded that payments from such trusts to union officials are reportable on Form LM-30, so long as no filing exemptions are applicable.

If a trust meets the above conditions, a union officer or employee must report any interests in, transactions with, or income or other benefits (including reimbursed expenses) from the trust unless they are covered by the exclusions in the [instructions to Part B of Form LM-30](#). Please note that Part B does not have an exclusion for payments and benefits received as a bona fide employee. Therefore, if a trust meets the above conditions, a union officer or employee must report payments from the trust, including salary or reimbursed expenses, in Part B.

However, there is a de minimis exception. Gifts that otherwise are reportable do not have to be reported if they (1) have a value of \$25 or less, (2) are sporadic or occasional, and (3) are given under circumstances unrelated to the recipient's status in a labor organization.

Trust-Related Reporting under Part C of Form LM-30

Part C is used for reporting interests in, transactions with, or income or other benefits from, an employer not covered by Part A or Part B if the transaction constitutes, or creates the appearance of, a conflict of interest. An employer is broadly defined in section 3(e) of the LMRDA to include "an employer within the meaning of any law of the United States relating to the employment of employees" not including "the United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof." 29 U.S.C. 402(e). Therefore, if the trust has any employees, it is an employer. Furthermore, a payment from a trust to an officer of a union that negotiates with an employer concerning the financing of the trust would present a potential conflict of interest. Therefore, an officer or employee would have to complete Part C with respect to payments from a trust which meets the above conditions unless they are covered by the exclusions in the [instructions for Part C of Form LM-30](#).

One of the exclusions is for payments and benefits as compensation for, or by reason of, service as a bona fide employee of the employer (that is, the trust). Therefore, any officer or employee of the union who is also an employee of the trust (a trustee is not an employee) would not have to report in Part C any payments received as a bona fide employee of the trust.

There is also a de minimis exception. Gifts that otherwise are reportable do not have to be reported if they (1) have a value of \$25 or less, (2) are sporadic or occasional, and (3) are given under circumstances unrelated to the recipient's status in a labor organization.

Form LM-10

Employers must file Form LM-10 to report, among other things, any payment or loan of money or other thing of value (including reimbursed expenses) to, or any such promise or agreement with, any labor organization or officer, agent, shop steward, or other representative of a labor organization unless the payments are covered by the exclusions in the [instructions for Form LM-10](#).

There is also a de minimis exception. Gifts that otherwise are reportable do not have to be reported if they (1) have a value of \$25 or less, (2) are sporadic or occasional, and (3) are given under circumstances unrelated to the recipient's status in a labor organization.

Frequently Asked Questions Related to Trusts and Form LM-30 and Form LM-10

[How do I determine if a payment from a trust to a union officer or employee who is a trustee of the trust fund is reportable on Form LM-30?](#)

[If a trust reimburses a union officer who is a trustee for expenses such as meals or travel, must the reimbursements be reported on Form LM-30?](#)

[Would the trust have to report the reimbursed expenses to trustees on Form LM-10?](#)

[Must a union officer or employee file Form LM-30 if the union pays a trustee's expenses and is reimbursed by the trust?](#)

[Must a trust file a Form LM-10 if it reimburses a union for a union trustee's expenses?](#)

[A union trustee participates in a charity golf tournament for which the trust paid his entrance fee. Is this reportable on Form LM-30 and Form LM-10?](#)

[Is a Form LM-30 required if a union officer or employee receives a lunch, golf outing, tickets to a sporting event, etc. from a business, such as a CPA firm, law firm, investment manager, etc, that deals with a trust in which the union is interested even if the item is provided in the context of the officer or employee's relationship with the trust fund?](#)

[If a union trustee of a Taft-Hartley fund attends an educational conference and a service provider to the trust fund has a reception, which costs more than \\$25 per person but is open to the benefits community, does that need to be reported?](#)

[Please confirm our understanding that an administrator of a Taft-Hartley fund is not required to file an LM-30 unless he is a union official independent of his role as administrator.](#)

[Does a joint fund constitute a "business" for purposes of completing Part B of Form LM-30?](#)

[Must a union officer or employee file a Form LM-30 if his or her spouse is employed by a health or welfare fund jointly administered by the union and the employer?](#)

[A union officer is employed by an apprenticeship training program \(training fund\) that is set up through a collective bargaining agreement between the union and certain employers. The training fund provides guidance and preparation for individuals wishing to enter the job force. The union officer is not compensated by the union. This individual coordinates and/or directs the training progress of various individuals \(apprentices\) who seek employment in a particular trade. These apprentices are members of the union. The duties of this individual do not include the actual training or "hands on" teaching of individuals.](#)

[Aside from his compensation and time spent for the coordination and direction of apprentices through the training fund, the individual spends time and is paid, based at an hourly wage rate, to conduct "hands on" instruction classes for apprentices. This additional amount is paid by the state community college. The state community college provides training facilities such as classroom and work areas for individuals interested in certain lines of work. The union has no direct relationship with the state community college.](#)

[Would this be an item to report in Part B or Part C on the Form LM-30?](#)

[The professionals who provide services to related benefit plans \(CPA, Attorney, Investment Managers\) split the cost of dinner after the Trust meeting. Some of the Trustees are union officers. Does the cost of the dinner need to be reported on Form LM-30? How would it be allocated if it is?](#)

[When a service provider \(investment consultant, independent accountant, etc.\) invites a union officer or employee to a golf outing or dinner free of charge, is it a reportable event? There is no relationship \(ownership or employment of union officer or employee, or spouse or minor child\) between the union and the service provider.](#)

[In regard to the filing requirements of Form LM-30, please inform us if any or all of the following examples would require LM-30 reporting by the officer or employee of a labor organization:](#)

[1. An officer of a Local is invited to a golf outing and dinner, which is sponsored by the consulting firm of the benefit funds in which the officer is a trustee. The consulting firm has invited both corporate and union clients. Is an LM-30 filing required for the:](#)

[* Cost of a round of golf \(estimated at \\$50\)](#)

[* The dinner \(estimated at \\$20\)](#)

[* A raffle prize \(estimated at \\$35\)](#)

[2. An officer is invited to a Christmas party, which again is sponsored by a consulting firm of the benefit funds in which the officer is a trustee. The cost of the dinner is estimated at \\$50.](#)

[A union officer is invited to a Christmas party, which is sponsored by a consulting firm of the benefit funds in which the officer is a trustee. The cost of the dinner is estimated at \\$50. Must the dinner be reported on Form LM-30?](#)

[A Fund Administrator received baseball tickets from a vendor. The Fund Administrator is also a union official. Must the Fund Administrator/union official report the baseball tickets on a Form LM-30?](#)

[Does the Form LM-10 apply to service providers such as accountants and attorneys?](#)

Q. How do I determine if a payment from a trust to a union officer or employee who is a trustee of the trust fund is reportable on Form LM-30?

A. Because of the variations in the nature of each trust and its relationship to the union, it is generally necessary to compare the factual situation involving a union officer or employee with the criteria for reporting. Read the above discussion of trust-related reporting under Part A. If the payments meet the conditions for reporting in Part A, enter all the required information in Part A.

If the payments are not required to be reported in Part A, read the above discussion of Part B. If the payments meet the conditions for reporting in Part B, enter all the required information in Part B.

If the payments are not required to be reported in Part B, read the above discussion of Part C. If the payments meet the conditions for reporting in Part C, enter all the required information in Part C.

If the payments do not meet the conditions described for Part A, Part B, or Part C, they are not required to be reported on Form LM-30.

The trust would have to report the payment if it is an employer, unless the payments fall within one of the exceptions in section 302(c) of the Taft-Hartley Act.

Q. If a trust reimburses a union officer who is a trustee for expenses such as meals or travel, must the reimbursements be reported on Form LM-30?

A. The reimbursed expenses likely must be reported in one of the three Parts of Form LM-30 as discussed above. However, if the trust is neither an employer nor a business, the payments would not be reportable.

Q. Would the trust have to report the reimbursed expenses to trustees on Form LM-10?

A. The trust would have to report the reimbursed expenses if it is an employer, unless the payments fall within one of the exceptions in section 302(c) of the Taft-Hartley Act which does not appear likely.

Q. Must a union officer or employee file Form LM-30 if the union pays a trustee's expenses and is reimbursed by the trust?

A. The union's disbursements to the officer or employee will appear on the union's Form LM-2 or LM-3, as will the reimbursement from the trust. There is no obligation on the official to file a Form LM-30.

Q. Must a trust file a Form LM-10 if it reimburses a union for a union trustee's expenses?

A. Employers are required to file Form LM-10 to report payments to labor organizations as well as to union officers or employees. Therefore, if the trust is an employer it will have to file a Form LM-10 unless the payments fall within one of the exceptions in section 302(c) of the Taft-Hartley Act.

Q. A union trustee participates in a charity golf tournament for which the trust paid his entrance fee. Is this reportable on Form LM-30 and Form LM-10?

A. The value of the golf event must be reported in one of the three Parts of Form LM-30 as discussed above unless the trust is neither an employer nor a business or the payment falls within one of the exceptions, which does not appear likely. If the trust is an employer, it would have to file a Form LM-10 unless the transaction falls within one of the exceptions in section 302(c) of the Taft-Hartley Act, which does not appear likely.

Q. Is a Form LM-30 required if a union officer or employee receives a lunch, golf outing, tickets to a sporting event, etc. from a business, such as a CPA firm, law firm, investment manager, etc, that deals with a trust in which the union is interested even if the item is provided in the context of the officer or employee's relationship with the trust fund?

A. As discussed above, the instructions for Part B of Form LM-30 require the reporting of any interest, income, or other benefit from a business any part of which consists of "buying from, selling or leasing directly or indirectly to, or otherwise dealing with a labor organization or with a **trust in which the labor organization is interested.**" Therefore, a Form LM-30 would be required if a union officer or employee receives a payment from a service provider that does business with a trust in which the labor organization is interested as defined in section 3(l) of the LMRDA

de minimis exception. Gifts that otherwise are reportable do not have to be reported if they (1) have a value of \$25 or less, (2) are sporadic or occasional, and (3) are given under circumstances unrelated to the recipient's status in a labor organization.

If the business is an employer, it would have to file a Form LM-10 unless the lunch, golf outing, tickets to a sporting event, etc. fall within one of the exceptions in section 302(c) of the Taft-Hartley Act, which does not appear likely.

Q. If a union trustee of a Taft-Hartley fund attends an educational conference and a service provider to the trust fund has a reception, which costs more than \$25 per person but is open to the benefits community, does that need to be reported?

A. A union officer or employee who attends the reception must file a Form LM-30. However, there is a de minimis exception. Gifts that otherwise are reportable do not have to be reported if they (1) have a value of \$25 or less, (2) are sporadic or occasional, and (3) are given under circumstances unrelated to the recipient's status in a labor organization. In determining whether the \$25 threshold is met, the union officer and employee is not required to utilize the donor's "per person" reception costs, but may use a greater or lesser figure, depending on the actual amount of food or beverages consumed, if such estimate is reasonable and made in good faith.

If the service provider is an employer, it would have to file a Form LM-10 unless the reception falls within one of the exceptions in section 302(c) of the Taft-Hartley Act, which does not appear likely.

Q. Please confirm our understanding that an administrator of a Taft-Hartley fund is not required to file an LM-30 unless he is a union official independent of his role as administrator.

A. An LM-30 is only required to be filed by an officer or employee of a union. If the fund administrator is not an officer or employee of a union, he is not required to file an LM-30.

Q. Does a joint fund constitute a "business" for purposes of completing Part B of Form LM-30?

A. As discussed above, a joint fund, also known as a Taft-Hartley fund, can constitute a "business" under Part B of the Form LM-30. Further, payments from an employer to the joint fund, pursuant to a collective bargaining agreement negotiated by the union on behalf of its members, is evidence of "dealings" between the union and the joint fund. Other evidence of "dealings" will include joint activities between the union and the joint fund, as well as any other commercial activities.

Q. Must a union officer or employee file a Form LM-30 if his or her spouse is employed by a health or welfare fund jointly administered by the union and the employer?

A. As discussed above, such a trust would likely be a business that deals with the union and therefore the officer or employee must report his or her spouse's earnings in Part B of Form LM-30.

Q. A union officer is employed by an apprenticeship training program (training fund) that is set up through a collective bargaining agreement between the union and certain employers. The training fund provides guidance and preparation for individuals wishing to enter the job force. The union officer is not compensated by the union. This individual coordinates and/or directs the training progress of various individuals (apprentices) who seek employment in a particular trade. These apprentices are members of the union. The duties of this individual do not include the actual training or "hands on" teaching of individuals.

Aside from his compensation and time spent for the coordination and direction of apprentices through the training fund, the individual spends time and is paid, based at an hourly wage rate, to conduct "hands on" instruction classes for apprentices. This additional amount is paid by the state community college. The state community college provides training facilities such as classroom and work areas for individuals interested in certain lines of work. The union has no direct relationship with the state community college.

Would this be an item to report in Part B or Part C on the Form LM-30?

A. A. If the state community college is exempt from the definition of "employer" in section 3(e) of the LMRDA because it is a "State or political subdivision thereof," no Form LM-30 would be required to report payments from the college to the officer. The determination of whether an entity is a political subdivision depends upon the facts of each case. Included among the factors that may be considered are the following: (1) whether the State or other public authority exercises any regulatory authority over the entity; (2) whether the State or other political authority participates in the selection of officers of the entity; (3) whether the operations of the entity are conducted independently; (4) whether the operations are financed by the State or other public authority; (5) whether the entity was created by a legislative

other public authority; and (7) whether the entity is exempt from Federal taxation.

If the community college does not fall within that exemption, the money the individual receives from the community college must be reported under Part B of Form LM-30 if (1) the community college is involved with "buying from, or selling or leasing directly or indirectly to, or otherwise dealing with" the apprenticeship training fund and (2) the fund is a trust in which the labor organization is interested as defined in section 3(l) of the LMRDA. If, for example, the fund pays the college for use of its facilities, the requirement that there be "dealings" between the college and the fund would be satisfied. The fund does appear to be a fund in which the union officer's labor organization is interested, as it appears to be a joint fund, also called a Taft-Harley fund, because it is funded by employers under a collective bargaining agreement, and presumably, employers and unions are equally represented in the administration of the fund.

If the community college does not deal with the apprenticeship training fund, a report may be required under Part C of Form LM-30 if the payment could present the appearance of a conflict of interest between the union officer and his duties to the union.

The payments to the union officer from the fund may also be reportable on Form LM-30. A joint fund can constitute a "business" under Part B of the Form LM-30. Further, payments from an employer to the joint fund, pursuant to a collective bargaining agreement negotiated by the union on behalf of its members, is evidence of "dealings" between the union and the joint fund. Other evidence of "dealings" will include joint activities between the union and the joint fund, as well as any other commercial activities. Payments from the fund to the union officer would thus be reported under Part B of Form LM-30.

If the community college or joint fund is an employer, it would have to file a Form LM-10 unless the transaction falls within one of the exceptions in section 302(c) of the Taft-Hartley Act.

Q. The professionals who provide services to related benefit plans (CPA, Attorney, Investment Managers) split the cost of dinner after the Trust meeting. Some of the Trustees are union officers. Does the cost of the dinner need to be reported on Form LM-30? How would it be allocated if it is?

A. The professionals appear to be, or represent, businesses that have dealings with a trust in which a labor union is interested. Officers and employees of this labor union must report payments and gifts, under Part B of Form LM-30, from businesses that have dealing with a trust in which their union is interested. The gift in this case, the post-meeting meal, is thus reportable, unless an exception applies.

Gifts that otherwise are reportable do not have to be reported if they (1) have a value of \$25 or less, (2) are sporadic or occasional, and (3) are given under circumstances unrelated to the recipient's status in a labor organization. If the value of the dinner is over \$25, the union officer must report the event on Form LM-30. If the dinner is less than \$25, the dinners are sporadic, and the professionals generally take clients out to dinner, the union official does not need to report the value of the meal.

If a service provider is an employer, it would have to file a Form LM-10 unless the dinner falls within one of the exceptions in section 302(c) of the Taft-Hartley Act, which does not appear likely.

Q. When a service provider (investment consultant, independent accountant, etc.) invites a union officer or employee to a golf outing or dinner free of charge, is it a reportable event? There is no relationship (ownership or employment of union officer or employee, or spouse or minor child) between the union and the service provider.

A. We understand "service provider" in this context to mean a business that deals with an ERISA-covered trust. Part B of Form LM-30 requires the reporting of any interest, income, or other benefit from a business any part of which consists of "buying from, selling or leasing directly or indirectly to, or otherwise dealing with your labor organization or with a trust in which your labor organization is interested." Therefore, a Form LM-30 would be required if a union officer or employee receives a free golf outing or dinner from a service provider that does business with a trust in which the labor organization is interested as defined in section 3(l) of the LMRDA. Reporting would not be required for a sporadic or occasional gift of \$25 or less if it is given under circumstances unrelated to the recipient's status in a labor organization.

If the service provider is an employer, it would have to file a Form LM-10 unless the event falls within one of the exceptions in section 302(c) of the Taft-Hartley Act which does not appear likely.

Q. In regard to the filing requirements of Form LM-30, please inform us if any or all of the following examples would require LM-30 reporting by the officer or employee of a labor organization:

1. An officer of a Local is invited to a golf outing and dinner, which is sponsored by the consulting firm of the benefit funds in which the officer is a trustee. The consulting firm has invited both corporate and union clients. Is an LM-30 filing required for the:

- * **Cost of a round of golf (estimated at \$50)**
- * **The dinner (estimated at \$20)**
- * **A raffle prize (estimated at \$35)**

2. An officer is invited to a Christmas party, which again is sponsored by a consulting firm of the benefit funds in which the officer is a trustee. The cost of the dinner is estimated at \$50.

A. Everything in the examples given is reportable except the \$20 dinner which would not be reportable if the consulting firm would take other clients to a similar dinner.

If the consulting firm is an employer, it would have to file a Form LM-10 for each example over \$25 unless the item falls within one of the exceptions in section 302(c) of the Taft-Hartley Act, which does not appear likely.

Q. A union officer is invited to a Christmas party, which is sponsored by a consulting firm of the benefit funds in which the officer is a trustee. The cost of the dinner is estimated at \$50. Must the dinner be reported on Form LM-30?

A. Sporadic or occasional gifts, gratuities, or loans of \$25 or less do not have to be reported on an LM-30, if they are given under circumstances unrelated to the recipient's status in a labor organization. Since the cost of the dinner is estimated at \$50, the officer would report this event on the LM-30.

If the consulting firm is an employer, it would have to file a Form LM-10 unless the party falls within one of the exceptions in section 302(c) of the Taft-Hartley Act which does not appear likely.

Q. A Fund Administrator received baseball tickets from a vendor. The Fund Administrator is also a union official. Must the Fund Administrator/union official report the baseball tickets on a Form LM-30?

A. The union official must report the baseball tickets that he received from the vendor on a Form LM-30, because the vendor has dealings with the fund of the union. It does not matter in what capacity (as Fund Administrator or union official), the individual received the tickets.

The vendor would have to file Form LM-10. The report would be required under section 203(a) of the LMRDA since the baseball tickets would not appear to fall within any of the exceptions in section 302(c) of the Labor Management Relations Act, 1947 (Taft-Hartley Act).

Q. Does the Form LM-10 apply to service providers such as accountants and attorneys?

A. Most likely; the definition of "employer" as used in Form LM-10 is very broad, and generally includes every individual or entity that employs one or more employees. Thus, if an accounting or law firm gives gifts to a union official, the firm must report it on a LM-10.

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