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Form T-1 Delayed

What is a Form T-1?

Form T-1, Trust Annual Report is an annual financial disclosure report filed by **labor unions** about certain trusts in which they have a financial interest. These trusts include, for example, building and redevelopment corporations, educational institutes, credit unions, labor union and employer joint funds, and job targeting funds. Common to many labor unions will be participation in training and apprenticeship funds. Labor unions were to use the Form T-1 to disclose financial information about the trust, such as assets, liabilities, receipts, and disbursements.

Labor unions that have total annual receipts of \$250,000 or more were to file this report. These are the labor unions that are currently required to file a Form LM-2 Labor Organization Annual Report.

An organization or fund is considered to be a trust, in which a labor union has an interest, if it meets certain requirements. The trust must be established by the labor union or have a governing body that includes at least one member appointed or selected by the labor union. A primary purpose of the trust must be to provide benefits to the members of the labor union or their beneficiaries.

A labor union must file a report if one of the following conditions is met. The labor union, alone or in combination with other labor unions, appoints or selects a majority of the members of the trust's governing board or the labor union's contribution to the trust, alone or in combination with other labor unions, represents more than 50% of the trust's receipts. Contributions by an employer under a collective bargaining agreement are considered contributions by the labor union.

When was it due?

The Form T-1 final rule took effect on January 1, 2009, prior to the recent delay action. The fiscal year of both the labor union and the trust in which it has an interest must, therefore, begin on or after January 1, 2009, for a Form T-1 filing to be required. The Form T-1 covers the trust's most recently completed fiscal year, that is, the fiscal year ending on or before the closing date of the labor union's fiscal year. The labor union must file the T-1 report within 90 days of the close of its fiscal year. For labor unions with a year end of December 31, 2009, the report would have been due 90 days later, or March 31, 2010. There are no extensions for this filing.

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What changed?

On December 30, 2009, the Office of Labor-Management Standards (OLMS) published in the Federal Register a rule extending for one year the filing due date of all Form T-1, Trust Annual Reports required to be filed during calendar year 2010. The Department of Labor has indicated that this extension will assist unions from incurring costly reporting burdens pending a rulemaking to rescind the Form T-1 regulation, which the Department announced in its Spring Regulatory Agenda. The rule does not affect those reports due during calendar year 2011 or beyond.

Additional Information

In the event the Form T-1 is not rescinded, there are some other issues to keep in mind:

If the labor organization or trust is audited, and if the audit report meets the standards as described in the instructions of the Form T-1, certain sections of the Form T-1 do not have to be completed. However, if an audit of the labor organization or trust is not submitted with the Form T-1, the labor union must complete all items of the Form T-1. The information required must be provided by the labor organization or trust to complete the Form T-1.

In addition, there is an exemption that labor organizations or unions will not need to file a Form T-1 for any section 3(l) trusts (as defined by the Labor-Management Report and Disclosures Act) that are required under ERISA and applicable Department of Labor regulations to file a Form 5500. The Form T-1 exemption, however, does not apply where an ERISA covered section 3(l) trust is eligible for an exemption from filing a Form 5500 or Form 5500-SF under the Department of Labor Regulations. The current instructions on this exemption are confusing; therefore, in the event the Form T-1 is not rescinded, a labor organization or union should consult with its legal counsel for assistance.

Contact John Rose at 216-765-6908 for more information.

