



July 29, 2019

Office of Information and Regulatory Affairs
Atten: OMB Desk Officer for DOL-OLMS
Office of Management and Budget
725 17th Street NW, Room 10235
Washington, DC 20503

By Electronic Submission

Re: **RIN 1245-AA09**
Proposed Rule for Labor Organization Annual Financial Reports for Trusts in Which a Labor Organization is Interested, Form T-1

To Whom It May Concern:

Thank you for this opportunity to comment on the proposed rule for Form T-1. Lindquist LLP is a regional certified public accounting firm that audits and prepares filings for more than 60 labor organizations in addition to providing audit and tax services for training funds, apprenticeship programs, building funds and educational funds that serve the respective members of these labor organizations.

The DOL has proposed the Form T-1 filing requirement "to close a reporting gap whereby labor organizations are required to report only on the funds that they exclusively control, but not those funds over which they exercise domination." The DOL believes that the Form T-1 will "prevent the circumvention or evasion of the LMRDA's reporting requirements."

Please note that most if not all of these organizations affected by the proposed Form T-1 maintain federal tax-exempt status, and are subject to onerous federal reporting requirements (IRS Form 990). IRS Form 990 is a comprehensive annual report that is publicly available for members and anyone else that wants to view the form. Financial information and compensation of officers is already reportable on Form 990 and much of the information for the proposed Form T-1 duplicates information reported on IRS Form 990. Because much of the financial information and officer compensation reported on Form 990 would be duplicated on the proposed Form T-1, we respectfully request that the DOL provide an exemption for completion of parts of the proposed Form T-1 for organizations that annually file IRS Form 990 or allow those organizations to skip completion of Schedules 1, 2 and 3 of Form T-1 because so much of the information is duplicated with information that is required to be reported on Form 990. With a streamlined version, organizations can complete pages one and two, which includes providing answers to questions that are unique to the Form T-1.

Schedules 1 and 2 require itemization of individual receipts/disbursements of \$10,000 or more which may be burdensome for organizations. Consideration should be made to list the top five individual receipts and disbursements or to increase the threshold dollar amount, to reduce the reporting burden.

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Column (D) for Disbursements for Official Business on Schedule 3 – Disbursement to Officers and Employees of the Trust will likely require significant time needed for recordkeeping for credit card transactions by vendor. Similar to Form LM-2, bookkeepers/accountants spend a significant amount of time coding credit card disbursements to officers, employees and vendors in accordance with the DOL instructions. The rules and exceptions stated in the instructions are unique to labor organizations, they require manual coding decisions, and the process of which, is not automated. The added cost of recordkeeping and preparing Form T-1 is concerning to labor organizations that aim to provide their members with cost-effective programs to prepare them for skilled jobs.

For our clients, the reporting responsibility does not appear to align with those charged with recordkeeping and accounting responsibilities. Form T-1 will add a reporting burden for parent or intermediate labor organizations that have no access or control over the books and records for organizations reported on the proposed Form T-1. Many organizations use a Third Party Administrator (TPA) to perform bookkeeping and accounting functions, but the parent or intermediate labor organization will be required to complete the reporting. Has the DOL considered the logistics for parent and intermediate organizations to obtain access to records that they have no authority or control over?

Under ERISA, certain plans that exclusively provide apprenticeship and training benefits can elect to file a notice in accordance with ERISA Regulation 2520.104-22 and are eligible for an exemption from filing Form 5500. Based on the proposed rule, it appears that these organizations may trigger a Form T-1 filing. Has the DOL considered updating the notice requirements under ERISA Regulation 2520.104-22, to include an exemption for Form T-1?

The Department proposes to require a labor organization with total annual receipts of \$250,000 or more to file a Form T-1 for each fund/trust defined by section 3(l) of the LMRDA, 29 U.S.C. 402(l). Consideration should be made to having a dollar threshold for the trust/fund that is subject to the proposed Form T-1 rules. The trust/fund could have gross receipts of any amount, but would be required to file a Form T-1 only because the labor organization's gross receipts are \$250,000 or more. A threshold should be established based on the trust/fund's gross receipts.

The projected Implementation date was not provided in the proposed rule. Because of the logistics and concerns of added time needed for recordkeeping and to prepare the Form T-1, the DOL should allow at least two years lead time, if not more, for organizations to prepare their implementation plan.

Conclusion

In conclusion, Lindquist LLP respectfully requests for the Department to evaluate the cost of compliance for the added recordkeeping and reporting burden, the added duplicative reporting for organizations that already file Form 990 with the IRS, and the logistics for organizations that do not have access or control over books and records for organizations required to complete the proposed Form T-1. Ultimately, the added cost of compliance will affect the financial wellness of programs that are designed to prepare members for their jobs.

Thank you for your consideration. Please contact me at (925) 277-9100 with any questions.

Sincerely,



Michelle L. McCann, CPA
Partner

for Lindquist LLP