

supporting schedules (Representational Activities, Union Administration, General Overhead, and Political and Lobbying Activities). Currently, two of these schedules provide some detail about various receipts and disbursements by general groupings or bookkeeping categories to identify their purpose. However, the revised Form LM-2 will require labor organizations to individually identify receipts or disbursements, reported in six supporting schedules, of \$5,000 or more, or total receipts or total disbursements, reported in each of those schedules, from an entity or individual that aggregate to \$5,000 or more during the reporting period. For individually identified receipts and disbursements, unions will have to report the name, address, purpose, date, and amount associated with the transaction.

Under the final rule, labor organizations that file the Form LM-2 are required to report the major receipts and disbursements of trusts in which the labor organization has an interest. Currently, a union only has to report information about subsidiary organizations, defined as "wholly owned, wholly controlled, and wholly financed by the reporting union." Under the final rule, if a union's financial contribution to a trust, or a contribution made on the union's behalf, is less than \$10,000 or the union has an interest in a trust that has annual receipts of less than \$250,000, the union only has to report on Form LM-2 the existence of the trust and the amount of the union's contribution or the contribution made on the union's behalf. If the contribution is \$10,000 or more and the annual receipts of the trust are \$250,000 or more, the labor organization will be required to report the receipts and disbursements of the trust on the new Form T-1. Unions will be required to separately identify each entity or individual from which the trust received \$10,000 or more during the reporting period. Unions will also be required to separately identify any entity or individual to which the trust made disbursements of \$10,000 or more, or that aggregated to \$10,000 or more, during the reporting period. For individually identified receipts and disbursements, unions will have to report the name, address, purpose, date, and amount associated with the transaction.

Unions will not have to file a Form T-1 for organizations that meet the statutory definition of a trust if the trust files a report pursuant to 26 U.S.C. 527, or pursuant to the requirements of ERISA, or if the organization is a Political Action Committee (PAC) and

files publicly available reports with a Federal or state agency. For such trusts, the union is required only to state on the Form LM-2 that such a report has been filed and where union members can obtain the report. In addition, a labor organization may substitute an independent audit for most of the information that otherwise would be required on a Form T-1, provided the audit meets certain criteria described in the preamble above.

As discussed above, the instructions to Form LM-2 also adopt the recent holding in *Chao v. Bremerton Metal Trades Council, AFL-CIO*, clarifying that any "conference, general committee, joint, or system board, or joint council," which is subordinate to a national or international labor organization is itself a labor organization under the LMRDA and will be required to file an annual financial report if the national or international labor organization is a labor organization engaged in an industry affecting commerce within the meaning of section 3(j) of the LMRDA. See 29 U.S.C. 402(j)(5). The Department estimates that this will add 100 new Form LM-2 filers.

Finally, under the rule, each labor organization that has annual receipts of \$250,000 or more is required to file a Form LM-2 electronically with the Department. Based on reports filed with OLMS and the experience of its investigators, the Department recognizes that a majority of current Form LM-2 filers currently use computerized recordkeeping systems and now possess, or can easily acquire, the technology necessary to submit reports in electronic form. Several OLMS field offices report that even smaller unions that file Form LM-3 reports now maintain their accounts electronically. The availability of electronic software that will permit unions that keep their records electronically to export data from their programs to the Form LM-2 software should reduce the burden of reporting financial information with the specificity required by the final rule. Under the final rule, unions have the choice to complete the reports for submission by either utilizing the Department's software to automatically transmit the information or by "cutting and pasting" the information into the Department's on-line form. If, however, a labor organization is unable to file electronically without undue burden or expense, it can request a hardship exemption from the Department. If the Department determines that the grant of the exemption is appropriate and consistent with the public interest and the protection of union members, the

union will be excused from filing electronically for the period of the exemption.

4. Overview of Changes to Form LM-3

The only revision in the final rule to Form LM-3 is the change that increases the size of labor organizations that are permitted to file the form from \$199,999.99 to \$249,999.99 in total annual receipts. This is required because the Form LM-2 reporting threshold is increasing to \$250,000.

The instructions to Form LM-3 also adopt the holding in *Chao v. Bremerton Metal Trades Council, AFL-CIO*, as the Department's interpretation of section 3(j)(5) of the LMRDA. The Department estimates that this will add 50 new Form LM-3 filers.

5. Overview of the Form LM-4

After carefully reviewing the comments, the Department has decided not to change the Form-LM-4 in the final rule.

6. Overview of the New Form T-1

A labor organization will be required to file Form T-1 if it has an interest in a trust, as defined in the LMRDA; if the union and the trust each have annual receipts of \$250,000 or more; and the union makes a financial contribution to the trust, or a contribution is made on the labor organization's behalf, of \$10,000 or more. If a union's financial contribution to a trust, or a contribution made on the union's behalf, is less than \$10,000 or the union has an interest in a trust that has annual receipts of less than \$250,000, the union only has to report the existence of the trust and the amount of the union's contribution or the contribution made on the union's behalf.

Also to minimize the burden, unions will not have to file a Form T-1 for organizations that meet the statutory definition of a trust if the trust files a report pursuant to 26 U.S.C. 527, or pursuant to the requirements of ERISA, or if the organization is a Political Action Committee (PAC) and files publicly available reports with a Federal or state agency. For such trusts, the union need only state on the Form LM-2 that such a report has been filed and where union members can obtain the report. In addition, a labor organization may choose to substitute an independent audit for most of the information that otherwise would be required on a Form T-1, provided the audit meets the criteria prescribed by the final rule. In such instances, the union is not required to provide the financial details for the trust otherwise required of filers.