

March 7, 2008

## MEMORANDUM

**TO: ALL U.S. AFFILIATES**

**FROM: ARMAND E. SABITONI  
GENERAL SECRETARY-TREASURER**

**SUBJECT: FILING OF ANNUAL GOVERNMENTAL REPORTS --  
LM (U.S. DEPARTMENT OF LABOR)  
990 INFORMATION RETURN (INTERNAL REVENUE SERVICE)**

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We are issuing this release to assist you in the preparation of your annual financial reports to the Government.

### **LM-2 OR LM-3 OR LM-4 – U.S. DEPARTMENT OF LABOR**

#### Who Must File:

Every labor organization subject to the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), the Civil Service Reform Act (CSRA), or the Foreign Service Act (FSA) must file one of these reports. These laws cover labor organizations that represent employees who work in private industry, employees of the U.S. Postal Service, and most Federal government employees. Labor Organizations that are comprised of 100% state, county, or municipal government employees are not covered by these laws and, therefore, are exempt from the filing requirements.

#### When to File:

The forms must be completed and filed with the U.S Department of Labor (DOL) within 90 days after the close of your calendar or fiscal year. It is advisable to send in the forms before the due date so that the forms are actually received by the DOL by the due date.

**Example** - Calendar Year Return - 2007 - Due at the DOL by **March 30, 2008**.

**Example** - Fiscal Year Return - Ending March 31, 2008 - Due at the DOL by June 29, 2008

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There is no provision in the law for extension of time to file these reports and serious penalties can be imposed for late filing or failure to file.

What Form to File:

This table shows the form your union should file.

<u>TOTAL ANNUAL RECEIPTS</u>	<u>REPORT TO BE FILED</u>
Less than \$10,000	Form LM-4
\$10,000 to \$249,999	Form LM-3
\$250,000 or more	Form LM-2

Officer Responsibilities and Penalties:

The president and secretary-treasurer of the labor organization are required to sign Form LM-2, LM-3 or LM-4 and are personally responsible for its filing and accuracy. Under the LMRDA, officers are subject to criminal penalties for willful failure to file a required report and for false reporting.

Form LM-2

An abundance of useful information can be obtained concerning the LM-2 Form at the OLMS website [http://www.dol.gov/esa/olms\\_org.htm](http://www.dol.gov/esa/olms_org.htm). There is a section for frequently asked questions at <http://www.dol.gov/esa/regs/compliance/olms/lm2faq.htm>. It is important to note that the form must be filed electronically unless a hardship exemption is applied for and granted. It is advisable to try to file as early as possible to ensure you do not have any last minute problems that may take time to resolve or to ensure there is no logjam of last minute filers. If you haven't already obtained digital signatures, which are required for electronic filing, go to the following website <http://www.dol.gov/esa/regs/compliance/olms/digital-signatures.htm> as soon as possible. If digital signatures were obtained in the past, check the expiration date of the signature to make sure that the digital signature will still be valid when the form will be filed. Previously, there was a problem with completing and filing the Form if you used AdobeReader version 7. This has been fixed by the DOL and either Adobe Version 6 or Version 7 can now be used. **DO NOT, however, use AdobeReader version 8.** The LM software is not yet compatible with that version.

Form LM-3 or LM-4:

Please review the instructions before completing the Forms. An Adobe Reader version of Forms LM-3 and LM-4 are available for download from [http://www.dol.gov/esa/regs/compliance/olms/LM3\\_downloadpg.htm](http://www.dol.gov/esa/regs/compliance/olms/LM3_downloadpg.htm) (LM4\_downloadpg.htm for LM-4). After the Forms have been completed you have two options for submitting your report. You can print it and have the officers sign it manually and mail it or you can electronically sign and submit the form.

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If you elect to file electronically, you must purchase an electronic digital signature. For Information on obtaining digital signatures visit: <http://www.dol.gov/esa/regs/compliance/olms/digital-signatures.htm>.

Answer to Question Concerning Changes in Constitution and Bylaws:

For this year, the answer to the question "During the reporting period, did your organization have any changes in its Constitution and bylaws (other than rates of dues and fees) or in practices/procedures listed in the instructions?" is "**YES.**" Then, under the "additional information" section enter: "The International is filing Constitutional changes on our behalf."

**IRS 990 INFORMATION RETURN**  
**RETURN OF ORGANIZATION EXEMPT FROM INCOME TAX**

Who Must File:

Form 990 and Form 990-EZ must be filed by tax-exempt organizations whose annual gross receipts are normally more than \$25,000. All labor organizations are tax-exempt organizations.

What Form to File:

Form 990 EZ may be used by organizations whose gross annual receipts are less than \$100,000 and that have total assets less than \$250,000 at the end of the year. All others must use Form 990.

When and Where to File:

The form must be completed and filed on or before the 15th day of the 5th month following the close of the calendar or fiscal year. For those affiliates on a calendar year, the form is due by May 15, 2008, for the calendar year 2007. It should be mailed by certified mail to the Internal Revenue Service Center, Ogden, UT 84201-0027.

Form 990 or Form 990-EZ can be electronically filed, but in some cases, Form 990 **must** be filed electronically. Visit [www.irs.gov/efile](http://www.irs.gov/efile) or call 1-800-555-4477 for more information.

It is extremely important to file the 990 Return on time as there is a \$20 per day penalty, up to a maximum of \$10,000, for late filing unless the delay can be proven to be due to a reasonable cause. If the labor organization has annual gross receipts exceeding \$1 million, the penalty is \$100 per day, up to a maximum of \$50,000. **It is the responsibility of the officers to ensure that the 990 return is filed on time.** The IRS strictly enforces these penalty provisions of the law and it is extremely hard to prove a reasonable cause for late filing. Make every possible effort to file this 990 Return on time.

An automatic extension of time to file can be obtained, if necessary, for an additional 3 months. Form 8868 is used for this purpose.

Use of LM Information on the Form 990:

A labor organization that files Form LM-2 or LM-3 can attach a copy of the completed LM form to the Form 990 to provide some of the information required by the Form 990. The areas on the Form 990 for which LM Form information can be substituted are:

- Lines 13 through 15 of Part I (but complete lines 16 through 21)
- Part II
- Part IV [but complete lines 59, 66, and 74, columns (A) and (B)].

When you substitute the LM Form for any of the Form 990 Parts or line items, you must attach a reconciliation sheet to show the relationship between the amounts on the LM Forms and the 990. This is particularly true of the relationship of disbursements shown on the LM Forms and the total expenses on line 17, Part I of the 990. You must make this reconciliation because the cash disbursements section of the LM forms includes non-expense items.

Assistance in Answering Certain Questions:

Make sure you answer all questions, especially on Part VI, so that your return is considered complete. To help you in answering some of the questions on the Form 990 we have prepared the following:

- Question J on 1<sup>st</sup> page: Organization type - 501(c)(5);
- Question I on 1<sup>st</sup> page: Four Digit Group Exemption Number (GEN) - 0121;
- Part IV, check the box "Organizations that **do not** follow SFAS 117, check here" and complete line 72.
- Questions 81(a) and (b) of Part VI have to do with political contributions made during the year. If state or local political contributions were made from the local or council treasury during the year, the questions must be answered in the affirmative and the total amount of contributions must be shown.

If your answer is **yes** to questions 81(a), then you must file, in addition to the 990, Form 1120 POL, U.S. Income Tax Return on Certain Political Organizations (see question 81[b]). The 1120 POL Return imposes a corporate tax on political contributions made from the treasury of a local union or district council. Consult with your accountant and/or attorney if this is the case. The question does not pertain to contributions made from a separate segregated political organization set up outside of the local union or district council. It pertains only to political contributions made from the local or council treasury.

- Question 83(a) asks, "Did the Organization comply with the public inspection requirements for returns and exemption applications?" Review General Instruction M to ensure that the organization did comply and check the "yes" box. The Form 990 must be made available for public inspection and General Instruction M describes what must be made available, what to do if a request is made in-person or in writing, and what can be charged if a request is made for a copy of the Form 990.

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- Question 85(a) asks, "Were substantially all dues non-deductible by members?" Check the "yes" box for the answer to 85(a) and skip lines 85(b) through 85(h). Labor unions are exempt from the notice and reporting requirements and potential tax liability with respect to lobbying and political expenditures. This is the reason we answer question 85(a) in the affirmative.

Political Organizations:

If a political organization was required to file a Form 8871, Political Organization Notice of Section 527 Status, then it is required to also file Form 990. Please contact your accountant and/or attorney if there are any questions.

**We strongly suggest to you that you mail all Government forms to Government agencies by *certified mail* so you will have proof of filing.**

**FILING COPIES OF THE ANNUAL FINANCIAL REPORTS WITH**  
**HEADQUARTERS AND THE LIUNA REGIONAL OFFICE**

In 1969, the General Executive Board passed a ruling that makes mandatory the filing of copies of LM Forms and 990 Returns at the **International Headquarters and the LIUNA Regional Office for your region**. The copies of these forms (**originals to the Government**) must be filed at **Headquarters and the LIUNA Regional Office** no later than the due dates required by Federal law for the original form. If you file the Form LM-2 electronically, please send in the printed version. Also, send the International Headquarters and the Regional Office a copy of an accountant's financial report.



ARMAND E. SABITONI  
General Secretary-Treasurer

AES:plr

cc: U.S. Regional Managers  
Field Auditors

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