

DOL Form T-1: What is it, and who is required to file?



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In March of this year, the Department of Labor (DOL) released a final rule on the Form T-1, Trust Annual Report. The Form T-1 is a new annual financial disclosure report that applies only to certain LM-2 filers. LM-2 filers are labor organizations with total annual receipts of \$250,000 or more. The new rule requires certain LM-2 filers to also file a Form T-1, but only under particular circumstances, for each trust in which the labor organization is interested.

A trust in which a labor organization is interested is defined by Section 3(l) of the Labor Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 402(l) as a trust or other fund or organization that was:

1. Created or established by a labor organization, or one or more of the trustees or one or more of the members of the governing body are selected or appointed by a labor organization; and
2. Its primary purpose is to provide benefits for the members of such labor organization or their beneficiaries.

LM-2 filers will trigger the Form T-1 reporting requirements (subject to certain exemptions) when, during the reporting period, it is deemed to have financial or managerial domination over the trust. For purposes of the Form T-1 reporting requirements, this means that the labor organization:

1. Selects or appoints a majority of the members of the trust's governing board; or
2. Contributes more than 50 percent of the trust's receipts.

So, how might this new rule affect NALC branches and state associations that file LM-2 reports?

If a branch or state association that files an LM-2 has no other associated entity or trust, then the ruling will have no effect at all and there is no requirement to file the Form T-1.

For LM-2 filers that do have associated entities or trusts, let's first look at some of the exemptions that are most common to NALC branches and state associations that don't trigger a filing of the Form T-1:

- any political action committee (PAC) that submits timely, complete and publicly available reports required by federal or state law
- Credit unions subject to the Federal Credit Union Act
- Employee benefit plans that file a Form 5500 Annual

Return/Report under ERISA

- Labor organizations' wholly owned subsidiary organizations whose financial transactions must already be reported on the union's Form LM-2 report

Now, let's apply the list of exemptions to some examples.

If a branch or state association that files an LM-2 has a wholly owned building corporation or similar building entity, but the financial activity of the building corporation is already being disclosed on its annual LM-2 filing or on a separate annual filing to the DOL, then there is no requirement to also file the Form T-1.

If a branch or state association has a PAC, but the financial activity of the PAC is already being timely and completely reported on a report required by federal or state law, then there is no requirement to also file the Form T-1.

If a branch or state association has a scholarship fund/bank account and the financial activities are already being disclosed on its annual LM-2 filing or on a separate annual filing to the DOL, then there is no requirement to also file the Form T-1.

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Remember, to trigger the filing of the Form T-1, a branch or state association LM-2 filer would have to have a separate trust (as defined above) in which the branch or state association appoints or selects a majority of the governing board of that entity, or contributes more than 50 percent of that entity's receipts and the financial activities of that entity aren't currently being reported to the DOL on its annual LM-2 filing.

These rules are effective beginning on June 4 and require a Form T-1 for a trust's "most recently concluded fiscal year" beginning on or after June 4. Should circumstances require the filing of the Form T-1, the branch or state association must file within 90 days after its first fiscal year that begins on or after June 4. A trust's "most recently concluded fiscal year" is the fiscal year ending 90 days or more before the filing union's fiscal year.

If any branch or state association LM-2 filer is uncertain if it has a reporting requirement for the Form T-1, please do not hesitate to contact my office for clarification.