

regulations reflect changes in the law made by the Tax Increase Prevention and Reconciliation Act of 2005 that require Federal, State, and local government entities to withhold income tax when making payments to persons providing property or services. These proposed regulations provide guidance to assist the government entities in complying with section 3402(t). The regulations also provide certain guidance to persons receiving payments for property or services from government entities.

**DATES:** The public hearing is being held on April 16, 2009, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the hearing by March 25, 2009.

**ADDRESSES:** The public hearing is being held in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Send submissions to: CC: PA: LPD: PR (REG-158747-06), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC: PA: LPD: PR (REG-158747-06), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic outlines of oral comments via the Federal eRulemaking Portal at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Concerning these proposed regulations, Jean Casey, (202) 622-6040; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Richard A. Hurst at [Richard.A.Hurst@irs.counsel.treas.gov](mailto:Richard.A.Hurst@irs.counsel.treas.gov) or (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed rulemaking (REG-158747-06) that was published in the **Federal Register** on Friday, December 5, 2008 (73 FR 74082).

Persons, who wish to present oral comments at the hearing that submitted written comments, must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by March 25, 2009.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of

charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue, NW entrance, 1111 Constitution Avenue, NW., Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

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## DEPARTMENT OF LABOR

### Office of Labor-Management Standards

#### 29 CFR Parts 403 and 408

**RIN 1215-AB62**

#### Labor Organization Annual Financial Reports

**AGENCY:** Office of Labor-Management Standards, Employment Standards Administration, Labor.

**ACTION:** Notice of proposed extension of effective date and applicability date.

**SUMMARY:** This notice seeks public comment on a proposal to delay for 180 days the April 21, 2009 effective date of the rule Labor Organization Annual Financial Reports, published in the **Federal Register** on January 21, 2009, and extended by a document published February 20, 2009; and delay the applicability date of the rule, now set for July 1, 2009, until January 1, 2010. The rule revised the Labor Organization Annual Report Form LM-2 and established a procedure whereby the Department of Labor may revoke, when warranted, the authorization to file the simplified Labor Organization Annual Report Form LM-3.

**DATES:** Following notice and comment, the Department delayed the subject rule, Labor Organization Annual Financial Reports, published in the **Federal Register** on January 21, 2009, and scheduled to take effect on February 20, 2009, from taking effect until April 21, 2009 (74 FR 7814). This notice proposes to further delay the effective date until October 19, 2009. Additionally, the rule published on January 21, 2009, applied

to labor organizations with fiscal years beginning on or after July 1, 2009. This notice also proposes to delay the applicability date of the rule to labor organizations reporting on fiscal years beginning on or after January 1, 2010. The comment period for the proposed delay of the effective date and applicability date will close on April 7, 2009.

**ADDRESSES:** You may submit comments, identified by RIN 1215-AB62, only by the following methods:

*Internet*—Federal eRulemaking Portal. Electronic comments may be submitted through <http://www.regulations.gov>. To locate the proposed rule, use key words such as “Labor-Management Standards” or “Labor Organization Annual Financial Reports” to search documents accepting comments. Follow the instructions for submitting comments. Please be advised that comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Delivery:* Comments may also be hand-delivered or mailed to: Denise M. Boucher, Director of the Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210. Because of security precautions the Department continues to experience delays in U.S. mail delivery. You should take this into consideration when preparing to meet the deadline for submitting comments.

The Office of Labor-Management Standards (OLMS) recommends that you confirm receipt of your delivered comments by contacting (202) 693-0123 (this is not a toll-free number). Individuals with hearing impairments may call (800) 877-8339 (TTY/TDD). Only those comments submitted through <http://www.regulations.gov>, hand-delivered, or mailed will be accepted. Comments will be available for public inspection at <http://www.regulations.gov> and during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Denise M. Boucher, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210, (202) 693-1185 (this is not a toll-free number), (800) 877-8339 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:** The Department published a notice (74 FR 5899) on February 3, 2009, seeking public comment on whether or not it should delay for 60 days the effective

date of the January 21 rule in order to provide the opportunity for further review and consideration of the questions of law and policy raised by the rule, including the merits of the rule and whether or not the Department should rescind or retain it. The period for public comment on the proposed extension closed on February 13, 2009, and the comment period on the merits of the rule closed on March 5, 2009. The Department received about 100 comments.

On February 20, 2009, the Department published a final rule extending the effective date of the January 21 rule until April 21, 2009, to provide an opportunity for that review (74 FR 7814). The Department is currently reviewing questions of law and policy raised by the rule, including consideration of the comments received from the public on these questions. This process will inform the Department in its determination whether or not to propose rescission of the January 21 rule.

This proposal to extend the effective date of the rule until October 19, 2009, and to extend the applicability date until January 1, 2010, is based upon both the need to review the comments received as well as the considerations underlying the Department's initial proposal to extend the effective date of the rule. As there stated:

Without this proposal to delay the effective date, affected labor organizations likely will undertake much effort and expense in changing their recordkeeping systems to meet the changes required by the rule. If a decision is made to propose changes and such changes are ultimately effectuated, these expenses will have been incurred unnecessarily. The tasks undertaken will have to be repeated, and costs duplicated, to comply with any further revisions to the rule. Additionally, the Department itself will incur significant start up costs in revising its electronic software to make the changes required by the rule; costs that will have to be duplicated if changes are later proposed and effectuated in a final rule. Furthermore, unless the Department now proposes to delay the effective date of the rule, the Department will have to begin answering questions and providing compliance assistance about how the final rule is to be implemented, guidance that will only confuse labor organizations if new guidance about a revised rule has to be provided in the near future. For the foregoing reasons, the Department has determined to propose delay of the effective date of the final rule and, by doing so, alert affected labor organizations that it may be advisable for them to delay preparations and financial commitments associated with the changes required by the final rule until a decision is made regarding the effective date of the final rule. The Department proposes the delay of the effective date to provide an opportunity

for further review and consideration of the questions of law and policy raised by it.

74 FR at 5900.

In addition, the Department is reviewing the comments it received on the merits of the rule and the question of whether to retain or rescind it. The Department received comments from individuals, labor unions, and public policy groups. Individuals and public policy groups opposed the rescission of the rule, explaining their views that the rule enhanced the transparency and accountability of labor unions. Two public policy groups and several individuals urged the Department to allow an extended comment period of not less than 120 days for the public to submit its view on the merits of the rule. Labor unions urged the Department to rescind the rule, many claiming that the Department underestimated the costs associated with the rule. Several labor organizations identified what they viewed as two fundamental flaws with the January 21, 2009 rule: (1) The rule had been promulgated without any meaningful review of the utility of the existing Form LM-2; and (2) the Department's burden estimates for the 2009 rule were based on unverified estimates rather than actual costs incurred. A federation of labor organizations stated that the Department has failed to demonstrate that the revised form will aid in the detection or prevention of corruption, noting its view that internal controls established by unions are the more effective approach. It also asserted that the Department's annual reports fail to demonstrate that enhanced reporting has assisted the Department's compliance efforts. Some labor unions expressed the view that the 2009 rule is based on a misapprehension about how unions receive dues payments and how organizing is conducted. Commenters expressed divergent views on the procedure for revoking the simplified reporting obligation for LM-3 filers whose reports were delinquent or deficient. While some saw the procedure as a necessary tool to fix an obvious problem, other commenters viewed the approach as fundamentally misguided and punitive. In the view of the latter commenters, improved compliance is better achieved through cooperative efforts by the Department and national or international unions working with locals that find it difficult to file timely reports.

The Department will not be able to complete its review of the January 21 rule, including consideration of the public comments on the merits of the rule, before April 21, 2009, the current

effective date of the rule. The Department estimates that a further extension of 180 days will enable the Department to complete such review, and if a determination is reached to propose rescission, to complete the notice and comment process required for rescinding a rule. Without a further extension, those unions with fiscal years beginning on or after July 1, 2009, would have to begin immediate preparations to comply with the rule, preparations that entail significant burden and expense, but which may prove unnecessary. Furthermore, the Department itself would have to expend substantial financial and compliance resources to prepare for the rule, resources that could be directed to other purposes if the rule is subsequently rescinded. These front-end burdens most directly and substantially fall on labor unions that already file the Form LM-2. If a decision is made to propose rescinding the regulations, and such proposal ultimately is effectuated, these expenses will have been incurred unnecessarily. Moreover, the urgency of dealing with these front-end burdens is greater now than at the time of the February 3, 2009, proposal, as the applicability date of July 1, 2009, is nearer.

For the foregoing reasons, the Department has determined to propose delay of the effective date and applicability date of the January 21, 2009, rule and, by doing so, to alert affected labor organizations that it may be advisable for them to delay any preparations and financial commitments associated with the changes required by the rule until a decision is made regarding the proposed extension of the effective and applicability dates of the final rule.

Signed in Washington, DC, this 11th day of March, 2009.

**Andrew D. Auerbach,**

*Deputy Director, Office of Labor-Management Standards.*

**Shelby Hallmark,**

*Acting Assistant Secretary for Employment Standards.*

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