

PART V: FEDERAL REPORTING

1. Checklist of Federal Government Required Forms and Reports

REPORT/FORM	WHO MUST FILE	LOCAL OFFICER RESPONSIBLE	GOVERNMENT FILING DEADLINE
Report LM-1	All newly chartered labor organizations	Treasurer	90 days from date of charter. (NOT 3 months)
Report LM-1A	Any labor organization with changes in either their Constitution and Bylaws and/or practices and procedures.	Secretary and President	Attached to and filed with LM-2 or LM-3.
Report LM-2	Labor organizations with total receipts \$250,000 or more per year. Must attach Bylaw amendments.	Treasurer and President	Within 90 days after the end of the fiscal year. (NOT 3 months).
Report LM-3	Labor organizations with total receipts under \$250,000 per year. Must attach Bylaw Amendments.	Treasurer and President	Same as Above
Report LM-4	Labor organizations with total annual receipts of less than \$10,000.	Treasurer and President	Same as Above
Form 940 Federal Unemployment Tax Return	Labor organizations with full-time or part-time employees or paying lost time.	Treasurer	Form 940 must be filed by the following January 31. Taxes will be paid using Form 8109.

REPORT/FORM	WHO MUST FILE	LOCAL OFFICER RESPONSIBLE	GOVERNMENT FILING DEADLINE
Form 941 Employer's Federal Tax Return	Locals with full-time or part-time employees or paying lost wages.	Treasurer	Due quarterly: April 30, July 31, October 31, January 31.
Form 990 Return of Organizations Exempt From Income Tax	All Locals with either 1) gross receipts greater than or equal to \$200,000 OR 2) total assets greater than or equal to \$500,000.	Treasurer	On or before the 15th day of the 5th month following the close of the Local's fiscal year.
Form 990-EZ	Locals may choose to file Form 990-EZ if the Local's gross receipts are less than \$200,000 AND total assets at the end of the tax year are less than \$500,000	Treasurer	On or before the 15th day of the 5th month following the close of the Local's fiscal year.
Form 990-N	Local that normally has gross receipts of \$50,000 or less.	Treasurer	On or before the 15th day of the 5th month following the close of the Local's fiscal year.
Form 990-T	Any Local with unrelated business or trade income of \$1,000 or more. For example: rental income.	Treasurer	15th day of the 5th month after the end of the tax year.
Form 1094-C Transmittal of Employer-Provided Health Insurance and Coverage Information Returns	All Locals with 50 or more full-time employees (including full-time equivalent employees) in the previous year.	Treasurer	February 28th or March 31st if filling electronically.
Form 1095-C Employer Provided Health Insurance Offer and Coverage	All locals with 50 or more full-time employees (including full-time equivalent employees) in the previous year	Treasurer	Due to employees by January 31 Due to IRS by February 28

REPORT/FORM	WHO MUST FILE	LOCAL OFFICER RESPONSIBLE	GOVERNMENT FILING DEADLING
Form 1096	Used solely for purpose of transmitting Form 1099 to the IRS.	Treasurer	Date Due to IRS February 28.
Form 1099 Statement for Recipients of Miscellaneous Income	Payments (including strike benefits) for services performed for a trade or business by people not treated as its employees.	Treasurer	Must give form to individual by January 31.
Form 1120-POL*	Any Local with a Political Action Committee with taxable income after taking the \$100 specific deductions for taxable year.	Treasurer	File by the 15 th day of the 3 rd month after the end of the tax year.
Form I-9 Employment Verification	All new employees must complete at time of hiring.		Retain I-9 form for three years from date of hiring or one year after date of termination, whichever is later.
Form W-2 Wage and Tax Statement	All Locals who have paid wages within the calendar year.		Due to employees by January 31. Due to the Social Security Administration by February 28.
Form W-3 Transmittal of Income Tax Statement	All Locals required to file W-2.		February 28.
Form W-4 Employee's Withholding Certificate	All employees.		Retain unless employee claims more than 10 Federal exemptions or, if an employee claims exemption from all Federal taxes and can be expected to earn more than \$200 per week, then a copy of the W-4 must be filed with the next quarter's Form 941.

* Transfers to CWA-COPE or CWA-COPE PCC do not qualify as a political contribution and are exempt from consideration of this tax.

2. CWA Policy for DOL Compliance

The Labor Management Reporting and Disclosure Act of 1959, as amended, imposes on the individual Local and its officers full responsibility, with criminal penalties provided, for filing the information and reports required under the Act, and for otherwise complying with the provisions of the law, as it applies to Locals. As a result of this, the CWA Executive Board, on November 20, 1959, adopted the following resolution:

1. That the International Secretary Treasurer shall be responsible for complying with the requirements of the LMRDA of 1959, as amended, as they affect the International level of the Union by filing required reports and information with appropriate government agencies.
2. Locals and officers of Locals shall be responsible for complying with the requirements of the LMRDA of 1959, as amended, as it applies to Locals, and shall file such reports and information directly with the DOL.
3. That two informational copies of all such reports filed with the DOL by the Locals and their officers shall be filed with the appropriate District Vice President.
4. That the office of the Secretary Treasurer of CWA shall keep the Locals of CWA advised with respect to report forms, regulations and other information published by the DOL with respect to the LMRDA of 1959, as amended, and shall furnish to Locals upon request such advice as may be sought.

A. LM-1 REGISTERING A NEW LOCAL WITH THE DOL

CWA Locals, when first chartered, become subject to the LMRDA, and must file with the U.S. Department of Labor, Office of Labor Management Standards (OLMS), an initial Report Form LM 1.

Form LM 1 "registers" a CWA Local with the DOL. The form, and instructions for filing the form, may be secured from the DOL website at:

http://www.dol.gov/olms/regs/compliance/GPEA_Forms/blanklmforms.htm

An acknowledgment will be sent by OLMS listing the Local's LM file number. This six digit number must be shown on any reports or correspondence with the OLMS. It should, therefore, be made a permanent part of your Local's files and records. This file number must be entered on the annual financial reports (Form LM 2, LM 3, or LM 4) which your Local is also required to file yearly with the DOL.

The Labor Management Reporting and Disclosure Act of 1959 requires that each labor organization subject to the Act adopt a constitution* and bylaws and file two copies with the Secretary of Labor, together with an initial Form LM 1 within 90 days after the date on which the Local becomes subject to the Act. Please note that it is 90 days and NOT 3 months. The initial Form LM 1 must report certain information concerning the structure, practices, and procedures of the labor organization.

**CWA Headquarters files with the Department of Labor copies of the CWA Constitution each time it is revised. Therefore, it will not be necessary for any newly chartered CWA Local to file this document with the LM 1. The Local, however, is responsible for filing two copies of its bylaws with the report form.*

Any changes in the information reported on the initial Form LM 1 must be reported when the Local files its annual financial report.

B. LM REPORTS

Fiscal Reports

Every Local subject to the Labor-Management Reporting and Disclosure Act (LMRDA) of 1959, as amended, must file a Financial Report Form LM-2, LM-3, or LM-4 each year with the Office of Labor-Management Standards (OLMS) of the DOL.

The only Locals exempt from filing any reports under the LMRDA are those comprised entirely of state, county, municipal or federal employees.

Reporting Requirements

- Locals with total annual receipts **of less than \$10,000** may use the Form LM-4.
- Locals with total annual receipts of **\$10,000 or more but less than \$250,000** may use the Form LM-3.
- Locals with total annual receipts of **\$250,000 or more must** use the electronic Form LM-2.

The DOL reports are **due 90 days after the close of the fiscal year**. For example, if your fiscal year ends September 30th the LM report must be filed by December 28th. The LMRDA does not authorize or grant any extension of time for filing this report for any reason.

Please be advised that the LM-2 must be filed electronically.

Reporting and assistance information is available at www.olms.dol.gov.

Locals are not required to file copies of the CWA Constitution as this requirement has been fulfilled by the CWA International on behalf of all CWA Locals.

Any Local whose charter is recalled must file a terminal LM report with the DOL, sending a copy to the International CWA Headquarters. A terminal financial report must be filed within 30 days after the date it ceased to exist. The last president and treasurer or the officials responsible for winding up the affairs of the labor organization must file a terminal financial report for the period from the beginning of the fiscal year to the date of termination.

CWA Councils (city, state or regional Councils) are also subject to all the reporting requirements of the LMRDA. Councils should use the same monetary guidelines as previously outlined in determining which LM financial report form to use.

i. LM-4

If total annual receipts are **less than \$10,000** Locals may use the **Form LM-4**.

To access the LM-4 and instructions:

<http://www.dol.gov/olms/regs/compliance/formspage.htm>

The DOL reports are due 90 days after the close of the fiscal year. The fiscal year for most CWA Locals closes on September 30, therefore, the reporting period for DOL reports is October 1 through September 30. This report must be filed with the DOL by December 28. The LMRDA does not authorize or grant any extension of time for filing this report for any reason.

For those Locals chartered during the fiscal year, the reporting period is the period from the date chartered through September 30. A newly chartered Local must also file Form LM-1 within 90 days of the charter date. A copy of the Local's bylaws must accompany the form.

While not required, the electronic forms system [EFS] is also available for LM-4 filers. It is a free, secure, web-based electronic filing system and requires no software or digital signature purchase.

EFS is ideal for smaller unions and has built-in, context-sensitive help eliminating the need to flip through paper instructions. Key information from the previous year's form is pre-filled into your EFS form. EFS has built-in math functions, therefore eliminating math errors. Before you file with EFS, a verification step identifies all incomplete entries and errors. Once you transmit the form, it is received and posted on-line the same day, which greatly reduces the chances of filing late. You can even save a copy of the report electronically for your records. EFS will save you time and reduce risk of error.

To learn more about EFS, take a tutorial on how to register and use it, please visit <http://www.dol.gov/olms/regs/compliance/efs/efshelp.htm>.

The OLMS has added Compliance Tips to their website located at <http://www.dol.gov/olms/regs/compliance/compltips.htm>. Included are tips for dealing with electronic recordkeeping, lost wages, credit cards, reporting officer and employee payments on Forms LM-2 and LM-3, and many others.

If you are interested in arranging for any training in these areas or have any questions, please feel free to contact any one of the OLMS District Offices. A complete listing of these offices can be found at: <http://www.dol.gov/olms/contacts/lmskeyp.htm>.

Reporting and assistance information is available at www.olms.dol.gov.

NOTE: You are not required to file two copies of the CWA Constitution as this requirement has been fulfilled by the CWA International on behalf of all CWA Locals.

ii. LM-3

If total annual receipts are **less than \$250,000** Locals may use the **Form LM-3**.

To access the LM-4 and instructions:

<http://www.dol.gov/olms/regs/compliance/formspage.htm>

The DOL reports are due 90 days after the close of the fiscal year. The fiscal year for most CWA Locals closes on September 30, therefore, the reporting period for DOL reports is October 1, through September 30. This report must be filed with the DOL by December 28. The LMRDA does not authorize or grant any extension of time for filing this report for any reason.

For those Locals chartered during the fiscal year, the reporting period is the period from the date chartered through September 30. A newly chartered Local must also file Form LM-1 within 90 days of the charter date. A copy of the Local's bylaws must accompany the form.

While not required, the electronic forms system [EFS] is also available for LM-3 filers. It is a free, secure, web-based electronic filing system and requires no software or digital signature purchase. With many LM-3 and LM-4 reports due before the end of December, this is the perfect time to register for and use EFS to file your annual report.

EFS has built-in, context-sensitive help eliminating the need to flip through paper instructions. Key information from the previous year's form is pre-filled into your EFS form. EFS has built-in math functions, therefore eliminating math errors. Before you file with EFS, a verification step identifies all incomplete entries and errors. Once you transmit the form, it is received and posted on-line the same day, which greatly reduces the chances of filing late. You can even save a copy of the report electronically for your records. EFS will save you time and reduce risk of error.

To learn more about EFS, take a tutorial on how to register and use it, please visit <http://www.dol.gov/olms/regs/compliance/efs/efshelp.htm>.

The OLMS has added Compliance Tips to their website located at <http://www.dol.gov/olms/regs/compliance/compltips.htm>. Included are tips for dealing with electronic recordkeeping, lost wages, credit cards, reporting officer and employee payments on Forms LM-2 and LM-3, and many others.

If you are interested in arranging for any training in these areas or have any questions, please feel free to contact any one of the OLMS District Offices. A complete listing of these offices can be found at: <http://www.dol.gov/olms/contacts/lmskeyp.htm>.

Reporting and assistance information is available at www.olms.dol.gov.

NOTE: You are not required to file two copies of the CWA Constitution as this requirement has been fulfilled by the CWA International on behalf of all CWA Locals.

iii. LM-2

If total annual receipts are **more than \$250,000** Locals **must** use the **online Form LM-2**.

To access the LM-4 and instructions:

<http://www.dol.gov/olms/regs/compliance/formspage.htm>

The Form LM-2 must be filed electronically using the OLMS Electronic Forms System (EFS), unless a hardship exemption has been obtained from the DOL. EFS is a web-based system for completing, signing, and submitting Labor Organization Annual Financial Reports. EFS allows a labor organization the ability to acquire, complete, sign, and electronically file a Form LM-2 report without purchasing a digital signature or downloading special software.

The DOL reports are due 90 days after the close of the fiscal year. The fiscal year for most CWA Locals closes on September 30, therefore, the reporting period for DOL reports is October 1 through September 30. This report must be filed with the DOL by December 28. The LMRDA does not authorize or grant any extension of time for filing this report for any reason.

For those Locals chartered during the fiscal year, the reporting period is the period from the date chartered through September 30. A newly chartered Local must also file Form LM-1 within 90 days of the charter date. A copy of the Local's bylaws must accompany the form.

The OLMS has added Compliance Tips to their website located at <http://www.dol.gov/olms/regs/compliance/compltips.htm>. Included are tips for dealing with electronic recordkeeping, lost wages, credit cards, reporting officer and employee payments on Forms LM-2 and LM-3, and many others.

If you are interested in arranging for any training in these areas or have any questions, please feel free to contact any one of the OLMS District Offices. A complete listing of these offices can be found at: <http://www.dol.gov/olms/contacts/lmskeyp.htm>.

Reporting and assistance information is available at www.olms.dol.gov.

NOTE: You are not required to file two copies of the CWA Constitution as this requirement has been fulfilled by the CWA International on behalf of all CWA Locals.

iv. COMMON REPORTING ERRORS

Report improperly signed by one signer in both places as President and Treasurer.

LM Instructions: Items 70 – 71 on the Form LM-2, Items 57-58 on the form LM-3 and items 20-21 on the Form LM-4 require both the president and treasurer, or corresponding principal officers, of the Labor organization to sign. If an officer other than the president or treasurer performs the duties of the principal executive or principal financial officer, then he or she should sign the report. If an officer other than the president or treasurer signs the report, enter the correct title and explain in Item 69, 56, or 19 (Additional Information) why the president or treasurer did not sign the report.

If the Local does not have two officers to sign the report, please send report to CWA Secretary-Treasurer's office for second signature.

Cash Reconciliation Imbalance

A cash reconciliation imbalance occurs when a labor union's end of year cash balance does not equal its beginning-of-year balance after receipts are added and disbursements are subtracted.

Beginning Cash Balance
Plus Receipts=
Total Cash
Minus Disbursements =
EOY Cash Calculated
Minus EOY Cash Reported =
Difference

The difference may be due to adjustments being made to the beginning cash after the prior LM report was filed. For example, there may have been an audit adjustment made to your cash account after the LM report was filed. Please review your beginning cash and see if there were any adjustments made after the prior LM report was filed. The beginning cash on the LM report should be changed and an explanation should be added if there were any audit adjustments made.

Credit Cards Reported as Vendor

Charges appearing on credit card bills paid during the reporting period must be allocated to the recipient of the payment by the credit card company. In addition, the labor organization must report some credit card expenses incurred by union officers and employees (including those for meals and entertainment) as indirect disbursements to officers and employees in Schedules 11 and 12. However, the labor organization must report in Schedule 15 through 19 credit card expenses incurred for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The labor organization must report in Column G (Other Disbursements) of Schedules 11 & 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business. Do not abbreviate the name of the entity or individual.

Schedules 14 through 19

The itemization page must be completed for Schedule 14 if “Other Receipts” from a single payer equal or exceed \$5,000 or more per reporting year; likewise, an itemization page from Schedules 15 through 19 must be completed if disbursements are made to a single payee / vendor of \$5,000 or more, with that functional activity category, per reporting year.

If no single receipt (in the case of Schedule 14) or no single disbursement within the appropriate functional activity category (in the case of Schedules 15-10) equals or exceeds \$5,000, then only Columns A (Name and Address), B (Type of Classification) and Line I (Total of All Non-itemized Transactions with this Payee/Payer) must be completed.

If there are one or more receipts (in the case of Schedule 14) or disbursements within a functional activity category (in the case of Schedules 15-19) of \$5,000 or more, then in addition to Columns A and B, Columns C (Purpose), D (Date) and E (Amount) must be completed for each transaction of \$5,000 or more. Line I should also be completed to disclose the total of any non-itemized transactions with that payee/payer.

“Various”, “Miscellaneous Expenses – Various / Office Expenses – Various/Insurance”, “Various Vendors”, “Various Supplies” are not vendors and should not be used on an itemization page. The actual name of the vendor who received the payment needs to be put on the itemization page if this page is required.

Schedule 11 (All Officers and Disbursements to Officers)

The Form LM-2 instructions require that you list all the labor organization’s officers and report all salaries and other direct and indirect disbursements to officers during the reporting period. You must report the full name of each person who held office in the labor organization at any time during the period. For example, if there was a new president or officer appointed during the reporting year then the new officer and the past officer must be reported. You must include all the labor organization’s officers whether or not any salary or other disbursements were made to them or on their behalf by the labor organization. An “Officer” is defined in section 3(n) of the LMRDA (29 U.S.C. 402) as “any constitutional officer, any person

authorized to perform functions of president, vice president, secretary treasurer, or other executive functions of a labor organization, an any member of its executive board of similar governing body.

Please also see #3 Credit Card Vendors reported as Vendors for direct and indirect disbursements to officers.

Terminal Reports

If a labor organization has gone out of existence as a reporting labor organization, the last president and treasurer or the officials responsible for winding up the affairs of the labor organization must file a terminal financial report for the period from the beginning of the fiscal year to the date of termination. A terminal financial report must be filed if the labor organization has gone out of business by disbanding, merging into another organization, or being merged and consolidated with one or more labor organization to form a new labor organization. A terminal financial report is not required if the labor organization changed its affiliation but continues to function as a separate reporting labor organization.

The terminal financial report must be submitted within 30 days after the date of termination.

You must also provide (Additional Information) a detailed statement of the reason the labor organization ceased to exist. Also report plans for the disposition of the labor organization's cash and other assets, if any (for example, transfer of cash and assets to parent body). Provide the name and address of the person or organization that will retain the records of the terminated organization. If the organization merged with another labor organization, report that organization's name, address, and 6-digit file number.

3. Internal Revenue Service (IRS) Required Reports

A. FORMS 990-N, 990EZ AND 990

ALL Locals must file Form 990s with the IRS – there are **NO** exceptions.

Organizations with Gross Receipts of **\$50,000 or less** must file an e-Postcard (Form 990-N)

990-N filing information: <https://www.irs.gov/Charities-&-Non-Profits/Annual-Electronic-Filing-Requirement-for-Small-Exempt-Organizations-Form-990-N-e-Postcard>

Organizations with Gross Receipts of **more than \$50,000** must file a **Form 990 or 990EZ**

Form 990 filing information: <http://www.irs.gov/uac/Current-Form-990-Series-Forms-and-Instructions>

The Internal Revenue Service (IRS) Form 990 must be filed no later than the fifteenth (15th) day of the fifth (5th) month following the close of the Local fiscal year. The fiscal year for most CWA Locals closes on September 30, therefore, the reporting period for DOL reports is October 1 through September 30. This report must be filed with the DOL by February 15.

If a Local fails to file a 990 or 990-N for 3 consecutive years, the IRS may revoke their tax exempt status under the CWA's Group Exemption. If this happens, CWA cannot reinstate the Local and the Local must file for their own tax exemption.

There are penalties for late filing or failure to file Form 990 or 990 EZ. If an organization whose gross receipts are less than \$1,000,000 for its tax year files its Form 990 after the due date (including any extensions), and the organization doesn't provide reasonable cause for filing late, the Internal Revenue Service will impose a penalty of \$20 per day for each day the return is late. The maximum penalty is \$10,000, or 5 percent of the organization's gross receipts, whichever is less. The penalty increases to \$100 per day, up to a maximum of \$50,000, for an organization whose gross receipts exceed \$1,000,000.

Any Local whose charter is recalled must file a terminal Form 990 with the IRS, sending a copy to the International Headquarters. This report would reflect a year ending date as the date the charter was recalled and a notation should be made at the top of the form that this is a "Terminal Report."

B. TAX EXEMPT STATUS

Each CWA Local is exempt from federal income tax under **IRS Code 501(c)(5)** per an exemption letter dated October 26, 1951 on file at the International office. This exemption applies to only income taxes. CWA affiliates are not exempt from sales tax, payroll taxes or personal property taxes.

When a local is chartered, the name of the local was submitted to the IRS to be placed on the roster identifying CWA affiliates. **The CWA Group Exemption Number (GEN) is 1102.** There is no need for a local to apply for exempt status with the IRS unless the Local has had their exemption revoked due to not filing their 990.

C. EMPLOYER IDENTIFICATION NUMBER

Locals do need to apply for an Employer Identification Number (EIN) and indicate the Group Exemption Number (1102) in the appropriate location on IRS Form 990. The employer identification, sometimes called a taxpayer identification number, is a unique, nine digit number assigned by the Internal Revenue Service (IRS) to identify a business or organization. It is required even if the union has no employees. The EIN is obtained from the IRS using form SS 4 and can be found at www.irs.gov and search for SS-4. Before applying, first verify that the local does not already have an EIN. This can be done by checking the local's bank statement for an EIN. Then check with the CWA financial services department to see if the local already has a number on file. Never use a social security number in the place of an EIN, because this could lead to unpleasant tax consequences for any officer involved.

D. FEDERAL AND STATE TAXES REPORTING

i. Withholding Tax

In establishing a payroll system for the local, CWA and its affiliates have discovered that hiring an outside payroll service such as Paychex or ADP is probably the best route to take. These firms will, for a fee, calculate and prepare payroll checks, make payroll tax payments and file reports required by state, federal and even local agencies. This method is strongly recommended because it relieves the treasurer of a great deal of work, and virtually guarantees those payroll tax payments and government reports will be submitted on time, avoiding penalties and interest. Should the local decide to take on the payroll functions, the local should consider the following:

1. Does it have sufficient experience in handling a payroll system, and
2. The interest payments and penalty fees for incorrect or late filing of payroll taxes.

Locals are required to deduct withholding and FICA taxes from all salaries, wages and cash compensations paid to the employees from Local funds. A Local is considered the employer of any officer or member to whom it pays a salary or wage. If your Local pays any compensation to officers that could be considered a salary, including lost time wages, you are required, by law, to withhold income and FICA taxes on all such salaries and wage payments.

Withholding and FICA Taxes

CWA recommends that affiliates with employees, and especially those affiliates that do not have a professional accounting staff, should engage the services of a payroll service, like Paychex or ADP. This service will perform the payroll calculations and file the required reports. If you maintain your payroll system, you will need to establish a system that will provide cumulative records for each employee for each calendar year, and make regular (usually quarterly) reports to both the federal and state government.

Each quarter, all employers who pay wages subject to income tax withholding or social security and Medicare taxes must file Form 941, Employer's Quarterly Federal Tax Return. If the Local is required to make federal tax deposits, pay the amount shown on line 12 of the 941 by electronic funds transfer (EFT). If the Local is not required to make federal tax deposits, the Local may pay the amount shown on line 12 of the 941 by EFT, credit card, debit card, check or money order. For more information on electronic payment options, visit the IRS website at www.irs.gov/payments.

For each whole or part month a return is not filed when required, there is a penalty of 5% of the unpaid tax due with that return. The maximum penalty is 25%. Also, for each whole or part month the tax is paid, a penalty of 0.5% of the amount of tax generally applies. The maximum for this penalty is also 25%. The penalties will not be charged if the local has a reasonable cause for failing to file or pay.

Use of a reporting agent or other third party payroll service provider does not relieve an employer of the responsibility to ensure that tax returns are filed and all taxes are paid or deposited correctly and on time.

Do not file more than one Form 941 per quarter. Filing more than one return may result in processing delays and may require correspondence between you and the IRS. Do not report more than one calendar quarter on a return.

Use the pre-addressed form mailed to the local. If the local does not have the form, get one from the IRS in time to file the return when due. If the local uses a form that is not pre-addressed, show the local's name and EIN on it. See the instructions for Form 941 for information on preparing the form.

If the local is required to file a final Form 941, it is also required to furnish Form W 2 to its employees by the due date of the final Form 941.

File Forms W 2 and W 3 with the SSA by the last day of the month that follows the due date of the final Form 941. See the Instructions for Forms W 2 and W 3 for more information. In all cases, however, be sure to correctly fill out the "Date quarter ended" section at the top of the form. Only taxes and withholding properly reported on Form W 2 should be reported on Form 941.

Reconciling forms W 2, W 3, and 941. When there are discrepancies between Forms 941 filed with the IRS and Forms W 2 and W 3 filed with the SSA, the IRS must contact the local to resolve the discrepancies.

To help reduce discrepancies:

- a. Report both social security and Medicare wages and taxes separately on Forms W-2, W-3, and 941.
- b. Report social security taxes on Form W-2 in the box for social security tax withheld, not as Medicare wages.
- c. Report Medicare taxes on Form W-2 in the box for Medicare tax withheld, not as Medicare wages.

- d. Make sure the social security wage amount for each employee does not exceed the annual social security wage base limit.

To reduce the discrepancies between amounts reported on Forms W-2, W-3, and 941:

- a. Insure the amounts on Form W-3 are the total amounts from Forms W-2.
- b. Reconcile Form W-3 with the four quarterly forms 941 by comparing amounts reported for income tax withholding, and Social Security and Medicare taxes.
- c. The amounts shown on the four quarterly Forms 941, including current year adjustments should be approximately twice the amounts shown on Form W-3. This is because Form 941 includes both the employer and employee shares of social security and Medicare taxes.

Amounts reported on Forms W 2, W 3, and 941 may not match for valid reasons. If they do not match, it should be determined that the reasons are valid. Keep the reconciliation so the local will have a record of why amounts do not match in case there are inquiries from the IRS or the SSA.

ii. Reimbursed Expenses

A reimbursement or allowance arrangement is a system by which a local document's and pays the advances, reimbursements, and charges for employees' business expenses. The method that a local uses to report a reimbursement or allowance amount depends on whether it has an accountable or a non-accountable plan. If a single payment included both wages and an expense reimbursement, the local must specify the amount of the reimbursement. Amounts paid under an accountable plan are not wages and are not subject to income tax withholding or the payments of social security, Medicare, and Federal unemployment (FUTA) taxes.

To have an accountable plan, a local reimbursement or allowance arrangement must require employees to meet all three of the following rules:

- a. They must have paid or incurred authorized expenses while performing services as employees
- b. They must adequately account, to the local, for these expenses within a reasonable period of time.
- c. They must return any amounts, in excess of expenses, within a reasonable period of time.

Under the Family Support Act of 1988, and effective January 1, 1989, if the expenses covered by this arrangement are not documented, or those amounts in excess of expenses are not returned within a reasonable period of time, the entire amount is treated as compensation under a nonaccountable account. By the authority granted under the Family Support Act, the Department of the Treasury ruled that, this entire amount is subject to income tax withholding, the payment of social security, Medicare, and FUTA taxes for the first payroll period following the end of the reasonable period. These rules apply to all ordinary and necessary employee business expenses that would otherwise qualify for a deduction by the employee.

Allowances and reimbursements that are paid from an "accountable plan" are tax free and are not reported on the Form W 2. Payments made from a nonaccountable plan are included as income, reported on the employee's Form W 2 and are subject to withholding (FITW and FICA) and employment tax (FICA and FUTA). These payments are subject to both employee withholdings (FITW & FICA) and employer employment tax (FICA & FUTA).

A plan is considered accountable when there is a plan or policy that includes certain requirements that employees must satisfy before expenses can be reimbursed. Specifically, the employer's policy must include the following requirements:

- 1. Expenses have a business connection.** An expense has a business connection when it is incurred while the employee performs services on behalf of the employer.
- 2. Expenses are substantiated.** An expense is properly substantiated when the employee submits documentation that includes (1) substantiation of the amount of the expense, (2) the purpose of the expense and (3) the time and place where the expense was incurred. Each element must be included. Broad references like "travel expense" or vague descriptions such as "miscellaneous business expenses" don't satisfy the substantiation requirements.
- 3. Unsubstantiated amounts must be returned to the employer.** Payments to local employees, for travel and other necessary expenses of the local, under a nonaccountable plan are wages and are subject to income tax withholding, payment of social security, Medicare, and FUTA taxes.

Local payments are treated as paid under a nonaccountable plan if:

- a. The local employee is not required to or does not timely substantiate those expenses to you with receipts or other documentation, or
- b. The local advances an amount to its' employee for business expenses and the employee is not required to, or does not timely return any amount not used for business expenses.

A local may reimburse employees by travel days, or miles, or some other fixed allowance. Employees are considered to have adequately accounted if the payments do not exceed rates established by the Federal Government. Other than the amount of these expenses, local employees' business expenses must be substantiated (for example, the business purpose of the travel or the travel or the number of business miles driven).

Another exception applies to payments made under a per diem or mileage allowance arrangement. If the per diem or mileage rate provided by the employer is higher than the IRS approved rate, the employee isn't required to return the difference between the employer's rate and the IRS approved rate (but the difference between the higher employer rate and the IRS approved rate is taxable and subject to federal income tax withholding, FICA and FUTA). If the per diem or allowance paid exceeds the amounts specified, the local must report the excess amount as wages. This excess amount is subject to income tax withholding, and payments of social security, Medicare, and FUTA taxes. Show this amount, equal to the specified amount, in box 13 of Form W 2, using code L. This exception applies only if the allowance is reasonably calculated not to exceed the employee's anticipated expenses and the employee is required to return the portion of the allowance which relates to days or miles not substantiated.

4. Substantiation and the return of unsubstantiated amounts are required in reasonable period of time. The individual is obligated to report on his individual tax return as income any difference received over actual expense incurred.

A reasonable period of time depends on the facts and circumstances. Generally, it is considered reasonable if the local's employee receives the:

- a. Advance within thirty (30) days of the time that expense is incurred, and

- b. An adequate accounting has to be made within sixty (60) days after the expenses were paid or incurred, and

Failure to abide by these rules will necessitate the entire advanced sum's treatment as compensation with Federal Income tax calculated @ 28%, and Social Security & Medicare tax @ 15.3%. Advances, if not repaid, will be reported as loans on the filings with the DOL on Form LM 2, LM 3, or LM 4 reports. The monetary limits of \$2,000 are imposed by Sec. 503 (a) of the LMRDA.

iii. Unemployment Taxes

The Federal Unemployment Tax Act (FUTA), with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Most employers pay both a federal and a state unemployment tax. Only the employer pays FUTA tax; it is not deducted from the employee's wages. For more information, see the Instructions for Form 940. Lost time wages are also subject to the unemployment tax.

The Local is subject to FUTA tax on the wages it pays employees who are in the current or preceding calendar year:

- a. The local paid wages of \$1,500 or more in any calendar quarter in the preceding calendar year or current calendar year, or
- b. The local had one or more employees for at least some part of a day in any 20 or more different weeks in the preceding calendar year or 20 or more different weeks in the current calendar year.

Computing FUTA tax. For 2016, the FUTA tax rate is 6.0%. The tax applies to the first \$7,000 is the Federal wage base. The state wage base may be different. Generally, a local can take a credit against its FUTA tax for amounts it paid into state unemployment funds. This credit cannot be more than 5.4% of taxable wages. If the local is entitled to the maximum 5.4% credit, the FUTA tax rate after the credit is .6%

For deposit purposes, figure FUTA tax quarterly. Determine the local's FUTA tax liability by multiplying the amount of wages paid during the quarter by .006 (.6%). Stop depositing FUTA tax on an employee's wages when it reaches \$7,000 in wages for the calendar year. If any part of the wages subject to FUTA are exempt from state unemployment tax, you may have to deposit more than the tax using the .006 rate. For

example, in certain states, certain payments of sick pay by unions, and certain fringe benefits, are exempt from state unemployment tax.

If the local's FUTA tax liability for a quarter is \$500 or less, it does not have to deposit the tax. Instead, the local may carry it forward and add it to the liability figured in the next quarter to see if it must make a deposit. If the local's FUTA tax liability for any calendar quarter is over \$500 (including any FUTA tax carried forward from an earlier quarter), the local must deposit the tax by electronic funds transfer (EFTPS).

Deposit the FUTA tax by the last day of the first month after the quarter ends. If the local's liability for the fourth quarter, plus any undeposited amount from any earlier quarter, is over \$500, deposit the entire amount by the due date of Form 940 (January 31). If it is \$500 or less, the local can either make a deposit or pay the tax with IRS Form 940 by January 31.

Use Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, to report this tax. The IRS will mail a preaddressed Form 940 to the local if it filed a return the year before. If the local does not receive Form 940, it can get the form by calling 1 800 TAX FORM (1 800 829 3676).

These taxes are reported on Form 940. It should be noted that certain tax credits are considered when reporting unemployment taxes. A Local financial officer unfamiliar with this tax report should consult with a qualified CPA or IRS agent before attempting to file the 940.

The FUTA tax rates and instructions for filing the form, may be secured from the IRS website at: <https://www.irs.gov/Forms-&-Pubs> under "Instructions for Form 940".

iv. Employer's Annual Federal Unemployment Tax Report Form 940

No attempt will be made to set forth an explanation as to how the Employer's Annual Federal Unemployment Tax Return Form 940 should be completed.

However, CWA Locals are not exempt from filing this form with the Internal Revenue Service.

All chartered Locals are required to file.

Any Local having paid wages to temporary, full time, part time or occasional employees will, in all probability, have to file Form 940 and pay an Unemployment Tax.

When determining who is considered an "employee," the Local must also take into account members who are reimbursed for "lost time" pay.

Unlike other financial reports filed by CWA Locals, which are basically statements of income and expense, Form 940 applies differently to each Local.

Consideration must be given not only to salaries paid, but also to any credits for unemployment taxes paid in the state in which your Local is located.

Your financial officers should not attempt to complete and file Form 940 without qualified professional assistance.

In this connection, the Internal Revenue Service urges the Local financial officer to contact the nearest IRS office for such help.

An appointment should be made with an IRS agent familiar with the Unemployment Tax.

The Local officer will probably be requested to bring with him the financial records and books for the current fiscal year.

At the meeting with the IRS agent, he will receive detailed instructions for completing Form 940 as it relates to his particular Local.

It is not recommended that one financial officer attempt to instruct an officer of another Local in the mechanics involved in the computation of the Unemployment Tax.

Normally, Form 940 is automatically mailed to Locals who have paid unemployment taxes in the past.

However, no Local should rely on receiving the form on an automatic basis from the IRS.

Your Local's financial officer should contact the nearest IRS office and secure blank copies of Form 940 from them.

v. Property Taxes

Most small Locals will not be required to pay this state tax. However, many of the larger Locals maintaining offices will probably be required to pay personal property tax on the assessed value of their office equipment, if the state in which they are located imposes such a tax. If your Local maintains an office, it is suggested that you contact your state assessor to obtain whatever information and forms you may require.

vi. State, City and Municipal Taxes

These taxes vary in every state, as do the rules and regulations concerning such taxes. Contact your State Unemployment Commission or assessor's office for further information and guidance as to whether your Local may be liable for any such taxes.

In many cities and municipalities, there are also tax requirements. You should contact your local government agencies with respect to necessary requirements in this regard.

vii. 1094-C and 1095-C Forms

Locals with 50 or more full-time employees (including full-time equivalent employees) in the previous year use Forms 1094-C and 1095-C to report the information required under the Affordable Care Act about offers of health coverage and enrollment in health coverage of their employees.

An employer determines its number of full-time equivalent employees for a month in the two steps that follow:

1. Combine the number of hours of service of all non-full-time employees for the month but do not include more than 120 hours of service per employee and
2. Divide the total by 120.

The Local identifies its full-time employees based on each employee's hours of service. An employee is a full-time employee for a calendar month if he or she averages at least 30 hours of service per week.

The Local should then add the number of full-time employees and full-time equivalent employees to determine if they are at least 50 and need to file Form 1094-C and 1095-C.

Example – Employer is Not an Applicable Large Employer (ALE)

Local X has 40 full-time employees for each calendar month during 2016. Local X also has 15 part-time employees for each calendar month during 2016 each of whom have 60 hours of service per month.

When combined, the hours of service of the part-time employees for a month totals 900 ($15 \times 60 = 900$). Dividing the combined hours of service of the part-time employees by 120 equals 7.5 ($900 / 120 = 7.5$). This number, 7.5, represents the number of Local X's full-time-equivalent employees for each month during 2016.

Local X adds up the total number of full-time employees for each calendar month of 2016, which is 480 ($40 \times 12 = 480$).

Local X adds up the total number of full-time equivalent employees for each calendar month of 2016, which is 90 ($7.5 \times 12 = 90$).

Local X adds those two numbers together and divides the total by 12, which equals 47.5 [$(480 + 90 = 570) / 12 = 47.5$].

Because the result is not a whole number, it is rounded to the next lowest whole number, so 47 is the result.

So, although Company X has 55 employees in total (40 full-time and 15 part-time) for each month of 2016, it has 47 full-time employees (including full-time equivalent employees) for purposes of ALE determination.

Because 47 is less than 50, Company X is not an ALE for 2017

Form 1094-C is due to the IRS by February 28th and must be used to report to the IRS summary information for each Local and to transmit Forms 1095-C to the IRS.

Form 1095-C is due to the Local's employees by January 31st and must accompany the 1094-C sent to the IRS by February 28th.

viii. 1099 and 1096 Forms

The IRS has ruled that if strike benefits furnished a member were in an aggregate amount of less than \$600 per year, no forms are required to be filed. Only fixed amount strike benefits of \$600 or more are to be reported to the member on Form 1099 and to IRS on 1099 and 1096.

Food, clothing, rent and insurance payments furnished as strike benefits by a Labor Union to needy workers participating in a strike may be considered gifts and are not reportable.

Whereas Locals are not required to report strike benefits of less than \$600, these payments are includible in the gross income of the recipients in the year received.

In the IRS publication "Your Federal Income Tax," it states: "Strike and lock out benefits paid by a Union from union dues, including both cash and their fair market value of goods received, are includible in income unless the facts clearly show that such benefits were intended as a gift."

Should any Local member request information as to the total amount of benefits he received during the calendar year, your Local is obligated to furnish that information. This need not be given on the Form 1099.

Form 1099 is furnished in triplicate with indications as to who receives each copy. Complete the form according to the instructions and sample shown; separate and distribute as follows:

- Copy A will be attached to Form 1096 for mailing to IRS at the address shown on the reverse side of Form 1096.
- Copy B is mailed to the individual named on the form.
- Copy C is retained for the Local's records.

You will note Form 1099 calls for "taxpayer identifying number." This is *your Employer Identification Number* which is issued by your nearest Director of Internal Revenue. If your Local does not know its number, it is on file in the International Headquarters office.

Form 1096 is solely for the purpose of transmitting to the Internal Revenue Service their copy of the 1099.

ix. Equal Employment Opportunity Commission (EEOC) Form 274

This report must be completed in full and filed by or on behalf of only referral local unions subject to Title VII of the Civil Rights Act of 1964, as amended, which have had 100 or more members at any time since December 31 of the preceding year.

"Referral Union" is a term which describes unions under whose normal methods of operation individuals customarily and regularly seek or gain employment through the union, or an agent of the union.

For the purposes of this report, a local union will be considered to be a Referral Union only if it:

- a. Operates a hiring hall or hiring office (on its own behalf or through a joint council or other referral agent), or
- b. Has an arrangement under which one or more employers are required to consider or hire persons referred by the union or its agent, or
- c. Has ten percent or more of its members employed by employers which customarily and regularly look to the union, or any agent of the union, for employees to be hired on a casual or temporary basis, for a specified period of time, or for the duration of a specified job.

The union will not be considered a Referral Union where there are only occasional referrals to an employer who relies on sources other than the union, or an agent of the union, for a substantial portion of all hires. Thus the fact that a union representative in an industrial plant occasionally recommends persons for a job at the employer's request would not in itself result in the classification of that union as a **Referral Union**.

Accordingly, this new policy should relieve most CWA Locals of the requirements of filing EEO 3 Reports.

However, should your Local be required to file Report EEO 3, you must submit the original and one copy no later than February 28 to:

Union Reporting Program
Equal Employment Opportunity Commission
131 M Street, NE
Washington, D.C. 20002

x. Trusteeship Reporting

The CWA Constitution states, in Article XIII, Section 8(b):

"The Executive Board may appoint a temporary administrator to temporarily conduct the affairs of a Local after receiving a request from the officers or membership of a Local for such action."

As defined in the "Labor Management Reporting and Disclosure Act, as Amended," Section 408.1(b):

"'Trusteeship' means any receivership, trusteeship or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws."

Part 408 of the Act specifies the report forms which the National must file periodically whenever a trusteeship is established.

Initial Trusteeship Report (LM-15)

Within 30 days after imposing a trusteeship over a subordinate union, the parent body must file an initial Trusteeship Report, Form LM-15, containing the following information:

- The name and address of the subordinate union;
- The date the trusteeship was established;
- Provisions of the constitution which specifically authorize imposition of the trusteeship;
- A detailed statement of the specific reason or reasons for establishing the trusteeship;
- Whether a convention met to which the trusted labor organization sent delegates or would have sent delegates if not in trusteeship;
- Whether the labor organization imposing the trusteeship held an election of officers;
- A full account of the assets and liabilities of the subordinate as of the time the trusteeship was established.

Semiannual Trusteeship Reports (LM-15)

The parent union must file a report covering each 6-month period for the duration of the trusteeship. Reports must be filed semiannually, using Form LM-15 but omitting the Statement of Assets and Liabilities on page 2 of the form. The first semiannual report is due within 30 days after the end of the 6-month period following the establishment of the trusteeship. Thereafter, a report is due within 30 days after the end of each 6-month period following the closing date of the previous semiannual report. Reports must explain in detail the reasons for continuing the trusteeship during the preceding 6 months.

Annual Financial Reports (LM-2)

For the duration of the trusteeship, the parent union must file an annual financial report on Form LM-2 on behalf of the trustee subordinate union within 90 days after the end of the trustee subordinate union's fiscal year. Any Form LM-2 filed on behalf of a trustee organization must include the signatures of the president and treasurer or corresponding principal officers of the parent union and the trustees of the subordinate union. A Form LM-2 must be used for any union under trusteeship, even though it might otherwise be eligible to file its annual report on the shorter Form LM-3 or LM-4.

Terminal Reports (LM-16)

Within 90 days after the termination of the trusteeship or the loss of identity as a reporting union by the trustee subordinate union through dissolution, merger, consolidation, or otherwise, the parent union must file: A Terminal Trusteeship Information Report, Form LM-16, disclosing the date and method of terminating the trusteeship, the names and titles of the subordinate union's officers, the method of selecting them, and other information; and terminal financial report on Form LM-2, giving a detailed account of the subordinate's financial condition at the time of the termination.

Other Reports (LM-1)

The organization imposing the trusteeship is also responsible for filing an initial or amended Labor Organization Information Report, Form LM-1, if necessary. The initial Form LM-1 which reports certain information concerning the structure, practices, and procedures of the labor organization and two copies of the labor organization's constitution and bylaws must be filed within 90 days after the date on which the labor organization becomes subject to the LMRDA.

An amended Form LM-1 must be filed to update the information on file with OLMS if there have been any changes in the practices and procedures listed in the latest Form LM-1. An amended Form LM-1, if necessary, must be filed with the trustee subordinate union's annual financial report, Form LM-2. (Federal employee labor

organizations subject solely to the CSRA are not required to submit an amended Form LM-1 to describe changes in their practices and procedures.)

Report on Selection of Delegates and Officers (LM-15A)

Form LM-15A must be filed with the initial, semiannual, and terminal trusteeship reports if, during the reporting period, there was any: Convention or other policy-determining body to which the subordinate union sent delegates or would have sent delegates if not in trusteeship; or election of officers of the union which imposed the trusteeship over the subordinate union.

Form LM-15A must contain detailed information on the representation of the trusted union, the method of nominating delegates, the means of notifying the members about electing the delegates, and the extent of the delegates' participation in conventions or elections of the parent union.

All forms must be signed by: (1) the International President; (2) the International Secretary Treasurer and (3) the Trustee, unless otherwise noted.

For Forms and Instructions: <http://www.dol.gov/olms/regs/compliance/formspage.htm>

4. CWA Council Reporting Requirements

In 1971 the U. S. Department of Labor ruled that CWA "Councils are labor organizations subject to the reporting requirements" of the Labor Management Reporting and Disclosure Act.

That section of the Act affecting CWA Councils was cited as follows:

"'Labor organization' means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a state or local central body.

"Regardless of whether it deals with employers concerning terms and conditions of employment and regardless of whether it is composed of employees, any conference, general committee, joint or system board, or joint council engaged in an industry affecting commerce and which is subordinate to a national or international labor organization is a 'labor organization' for the purposes of the Act."

It has been determined by the Labor Department that CWA Councils "function between the International and local levels of CWA and they have a separate existence as evidenced in part by the fact that they have their own treasuries, collect assessments from affiliated locals, and elect their own officers."

Each Council is to follow the same OLMS reporting procedure as for CWA Locals. Newly formed Councils are to file a preliminary OLMS Information Report Form LM 1. A copy of this form is to be furnished to the International Secretary Treasurer.

Further, within ninety (90) days following the end of the Council's fiscal year, financial Report Form LM 2 or LM 3, as appropriate, must be filed with the Labor Department.

A copy of this form is also to be furnished the International Secretary Treasurer.

All report forms are to be forwarded through the lines of organization established in each District.

In addition, each Council is to keep the International currently advised as to the names and addresses of the principal officers.

Should you encounter any problems with respect to the above, the Vice President of your District or the International Secretary Treasurer may be of assistance.

5. Political Committees – IRS Section 527

A. ESTABLISHING, FUNDING AND USING A SEPARATE ACCOUNT FOR POLITICAL SPENDING

A Local union, or District Office, that makes political contributions and other election-related expenditures directed to non-members of the union ordinarily should set up a separate segregated non-federal political account in order to avoid potentially significant tax liability to the Local under Section 527 of the Internal Revenue Code. This separate account is often called a "Section 527" account.

The only exception might be a Local union that earns little or no net investment income from interest, rents, dividends, royalties and capital gains during the year. For that Local, there would be little or no potential tax. But, it is probably still advisable to establish a separate political account because most jurisdictions require registration and reporting of accounts that make political contributions and expenditures. It is almost always better to register and report the transactions of a separate political account than to register and report those of the Local union itself.

In order to establish its Section 527 account, the Local, or District, must obtain an Employer Identification Number (EIN) from the Internal Revenue Service, so that the IRS treats the account as a distinct organization from the union itself for tax purposes. It is easy to obtain an EIN, including online within a few minutes. See www.irs.gov/businesses/small/article/0,,id=102767,00.html.

A Local should fund its Section 527 account by direct deposits of incoming dues receipts, without first depositing them in an interest-bearing account of the Local. Or, the Local should make transfers to the account on the same day the Local received at least an equal amount of dues income. The Local should not supplement the funding of its Section 527 account with other transfers from its general fund accounts.

A Local's Section 527 account should be devoted exclusively to the following: (1) Contributions to candidates for state and local office, political party non-federal accounts and other non-federal political committees; (2) Partisan communications to the general public about non-federal candidates and political parties; and (3) Partisan voter registration and get-out-the-vote activities among the general public.

All contributions and general public spending must comply with state law concerning sources, amounts, registration and reporting. Many states either prohibit or limit particular uses of union dues funded Section 527 accounts. State law can prohibit, limit or otherwise restrict contributions. However, no state can restrict the message content of a political account's public communications about candidates and elections.

The Section 527 account must not be used to contribute to federal candidates, political party federal accounts, or other federal political committees.

The Section 527 account can be used to finance general public communications that explicitly advocate the election or defeat of particular federal candidates. However, doing so could trigger special reports with the Federal Election Commission (FEC), and doing too much of this, in relation to the account's other spending, could trigger a requirement that the account register with the FEC as a type of federal PAC that makes expenditures but no federal contributions what is commonly called a "Super PAC."

This account should not be used for spending on ballot measures (contributions to ballot measure committees or public advocacy about ballot measures), due to potentially adverse federal tax consequences. Instead, the Local's general fund should be used for ballot measure activity. State registration and reporting requirements may apply to this type of spending.

Also, the Section 527 account may be used for direct communications with the Local's own members and their household family members concerning federal, state and local candidates, political parties and other partisan matters. However, it is unnecessary to use the account for these communications, and it could trigger, to the IRS or a state, reporting of spending that it wouldn't have to report if it used its regular general fund account.

The Local can and should use its regular general fund account for these internal membership communications. Also, the FEC requires periodic reports of regular general fund spending on some explicit electoral advocacy communications to members about federal candidates during election years. This requirement applies only to communications that primarily contain that kind of message and only after a Local's direct (not overhead) costs for these communications exceed \$2,000 in connection with either the primary or general election overall.

In contrast, few states require reporting about membership communications even when paid by a regular general fund account.

B. REPORTING BY SECTION 527 ACCOUNTS TO THE IRS

There are four different IRS reporting and disclosure requirements for Section 527 accounts:

1. Form 8871
2. Form 8872
3. Form 990 or Form 990EZ
4. Form 1120-POL

1. Initial Notice of Section 527 Status (Form 8871)

A Section 527 account, whose gross receipts are expected to reach \$25,000 during its tax year, must notify the IRS that it is to be treated as a Section 527 organization. This notice must be filed electronically within 24 hours of either the establishment of the account or the date when it becomes known that the \$25,000 threshold will be reached that year. To do so, the account must file Form 8871 - Political Organization Notice of Section 527 Status. Form 8871 must be filed via the IRS "Political Organizations" website at <https://forms.irs.gov/politicalOrgs/login/887xLogin.jsp?ck>.

Filing this notice is important because it is a prerequisite to tax-exempt status for the Section 527 account. If no required notice is filed, all of the account's receipts will be taxable at a 35% rate. If the notice is not required because the \$25,000 threshold won't be reached, then that tax won't apply

2. Periodic Reports of Receipts and Disbursements (Form 8872)

A Section 527 political organization that registers with the IRS on Form 8871 must also file periodic financial reports with the IRS on Form 8872 - Political Organization Report of Contributions and Expenditures. These reports are generally due quarterly during even numbered years, and semi-annually during odd-numbered years, with some additional reports due around federal general-election dates. The Section 527 account must report the names, addresses, occupation and employer of individuals contributing at least \$200/yr and all persons the account pays at least \$500/yr.

An important exception to the Form 8872 requirement is a Qualified State or Local Political Organization (QSLPO), meaning a Section 527 organization that is registered in a state or municipality as a PAC and files publicly available reports with that authority that contain information similar to what Form 8872 requires. If a Section 527 account qualifies for this exception, then it may claim the exception by checking Line 10a of its Form 8871.

Form 8872 may be filed either by mail or electronically at <https://forms.irs.gov/politicalOrgs/login/887xLogin.jsp>. If the Section 527 account anticipates that its receipts or disbursements will exceed \$50,000/yr, then it must file electronically.

3. Annual Information Return (Form 990 or Form 990EZ)

Some political organizations must file an annual information return, either Form 990 - Return of Organization Exempt from Income Tax, or Form 990EZ - Short Form Return of Organization Exempt From Income Tax. These forms reflect general financial and operational information about the account.

If a Section 527 account has at least \$100,000/yr in gross receipts or its year-end total assets are at least \$250,000, then it must file Form 990. This is true whether or not the account is a QSLPO (see above).

A Section 527 account that is not a QSLPO and has gross receipts of at least \$25,000/yr but less than \$100,000/yr and has less than \$250,000 in year-end total assets, must file Form 990EZ.

Form 990 or Form 990EZ is due four months and 15 days after the end of the Section 527 account's tax year. These forms may be filed either by mail or electronically.

4. Annual Income Tax Return (Form 1120-POL)

A Local union's Section 527 account may and should earn interest, because that income may be used for its political purposes. The account will owe federal tax on all interest over \$100.00, subject to deductions for any expenses incurred in earning that interest. If tax is owed, Form 1120-POL - Taxable Political Receipts and Expenditures must be filed.

Form 1120-POL is due two months and 15 days after the end of the Section 527 account's tax year – two months before Form 990 or 990EZ is due. This form may be filed by mail or electronically.

C. LOCALS MAY BE TAXED ON GENERAL FUND POLITICAL SPENDING

A Local union that does not set up a separate Section 527 account, and instead makes political contributions and expenditures (again, beyond its own members) from its general fund account may owe a federal tax on that spending. If so, the Local itself must file Form 1120-POL. This tax on the Local would be assessed at a 35% rate, on the lesser of:

- The Local's political spending from its general fund accounts; or
- The Local's net "investment income" in excess of \$100. For this calculation, investment income includes the Local's net income from interest, rents, dividends, royalties and capital gains.

In order to avoid this tax, a Local should only undertake general-public political spending from a separate Section 527 account.

Note: *If a Local's general fund (or its separate Section 527 account) is used to collect and transfer member contributions to CWA COPE-PCC, CWA's federal PAC, then those transactions are not taxable.*

D. PUBLIC DISCLOSURE

All of these IRS notices, reports and returns, except for Form 1120-POL, are made publicly available by the IRS on its website, and the Section 527 account must provide them to persons who request it. There are IRS penalties for failure to comply with these disclosure requirements.