

OPERATING ENGINEERS TRUST FUNDS

I.U.O.E. LOCAL 12 HEALTH & WELFARE / PENSION / VACATION / TRAINING

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BULLETIN

TO: ALL SIGNATORY EMPLOYERS DATE: JULY 1, 2012

FROM: OPERATING ENGINEERS TRUST FUNDS (I.U.O.E., LOCAL #12)

SUBJECT: REPORTING OF PRINCIPAL EMPLOYEES OF SIGNATORY CORPORATIONS AND LIMITED LIABILITY COMPANIES

Your Collective Bargaining Agreement with I.O.U.E., Local 12 requires you to make payments to the Operating Engineers Trust Funds for all straight time or overtime hours worked by or paid to each employee who performs any work covered by the Agreement.

The Trustees of the Operating Engineers Trust Funds have adopted a policy to permit certain identifiable employees to be reported in a different manner by employers that are either a corporation or a limited liability company.

In those cases where a signatory employer that is either a corporation or a Limited Liability Company has principal employees whose employment includes any time spent performing duties covered by the Collective Bargaining Agreement, it will be possible to report those principal employees on a monthly, flat rate basis instead of by the hour in accordance with rules established by the Trustees.

The Trustees' definition of a "Principal Employee" is a person who performs work covered by the Collective Bargaining Agreement and who owns 10% or more of the capital stock issued and outstanding of the incorporated, signatory employer entity, or a person who owns 10% or more of the assets and profits of a limited liability company.

Specific rules have been established that apply to the reporting of Principal Shareholder-Employees.

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1. Only those Principal Employees who own 10% or more ownership of the capital stock issued and outstanding of a signatory employer that is a corporation, or 10 % or more of the assets and profits of a signatory employer that is a Limited Liability Company, are eligible for the monthly, flat rate reporting procedure.
2. A signatory employer may report no more than two Principal Employees on a monthly, flat rate basis.
3. In order to qualify for the monthly flat rate basis of contributing to the trusts, the reporting of individuals of this category must be maintained in effect for not less than one year.
4. Any current Reserve Hour Bank in the Health & Welfare Fund applicable to the Principal Employee will be frozen and cannot be used beginning with the date the new reporting procedure is initiated by your company.

The monthly rates of contributions payable to the Operating Engineers Trust Funds that apply only to the Principal Employee are as follows:

Rate Per Month Per Principal Employee

(NOTE: These rates will be effective July 1, 2012)

	<u>So. Calif</u>	<u>San Diego</u>	<u>So. Nevada</u>
Health & Welfare	\$1344.00	\$1344.00	\$1359.00
Pension	450.00	450.00	450.00
Supplemental Dues	125.00	125.00	125.00
Apprentice Training	80.00	80.00	80.00
Industry Fund	5.00	8.00	.00
Contract Compliance	<u>5.00</u>	<u>5.00</u>	<u>.00</u>
TOTAL	\$2,009.00	\$2,012.00	\$2,014.00

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NOTE: The rates indicated above apply to the designated Collective Bargaining areas and are subject to change in accordance with instruction from the parties to the Collective Bargaining Agreements and/or the Trustees of the Operating Engineers Trust Funds.

Please understand that every signatory entity must comply with the basic requirements in the Collective Bargaining Agreement regarding all hours worked by or paid to an employee. The Trustees have agreed to permit the option, as indicated above, limited to those individuals who meet the definition of principal employee. If a signatory employer that is a corporation or limited liability company is paying any other employee in a manner other than solely by hourly wages, the Collective Bargaining Agreement requires a minimum of 40 hours per week be reported and paid to the Trust Funds on behalf of that employee.

For example, in the case of an employee being compensated by weekly salary who is not a principal employee who has signed a Principal Employee Program Participation Agreement, the Trustees will continue to demand that 40 hours per week be reported and paid to the Trust Funds on behalf of that employee.

The reporting procedure described in this bulletin is not available to those signatory entities which are either a sole proprietorship or a partnership. Sole Proprietors, and Partners, who own more than 10% of the assets or profits of a signatory employer, cannot be reported to the Trusts by the employer they own.

The Collective Bargaining Agreement refers to “incorporated-owner-operator.” The Trustees consider that type of entity to be a corporation with at least one individual who performs the duties of an Operating Engineer and is also the principal shareholder of that corporation. In that case, the reporting option provided by the trustees is applicable. The individual owner-operator of an incorporated owner-operator entity, with ownership of 10% or more of the capitol stock issued and outstanding of the specific corporation, may be reported to the Trust under the flat rate per month procedure.

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This special flat rate reporting policy is the result of extensive review by the Trustees after several years of dealing with the reporting practices of signatory employers. It is a step that has been designed to minimize or eliminate disputes over the interpretation and enforcement of the terms and conditions of the Collective Bargaining Agreement as they apply to Principal Employees. The Trust Fund Office will provide special reporting forms to those employers that want to use the special reporting option. That special reporting form will be provided monthly along with the regular reporting form that is used by each employer to report all other Operating Engineers employees. Furthermore, all other reporting requirements established by the Trustees apply to this special option.

Late reporting or failure to remit the funds that are due will be Subject to the assessment of liquidated damages and other assessments set forth in the Collective Bargaining Agreement, and the loss of the privilege of monthly, flat rate reporting.

**THE EFFECTIVE DATE OF THESE NEW REPORTING PROVISIONS IS
JULY 1, 2012.**

If you have any questions regarding this special reporting procedure, please call the Employer Compliance Department of the Operating Engineers Trust Fund Office at the following telephone numbers:

(626) 356-1040
(626) 356-1041
(626) 356-1042
(626) 356-1045
(626) 356-1046
(626) 356-1087

Personnel in that department will be able to answer your questions and assist you in implementing this new procedure.

ADMINISTRATIVE OFFICE