

IMPORTANT NOTICE TO ALL PARTICIPATING EMPLOYERS

May 24, 2010

In view of problems identified during EIT's payroll auditing process, the Fund Office is providing this supplement to the "Important Notice" distributed to all employers in May 2006 to clarify the difference between the "Owner in Fact" provision in the collective bargaining agreement and EIT's "Intentional Over-Reporting" policy.

In the previous notice, EIT explained that individuals related to one of the owners of an employer, and employees who exercise significant control over the management or operations of the employer's business, as set forth in Section 3.30 of the Principal Agreement (Section 16.12 of the Communication Agreement, Section 6.11 of the Residential Agreement), are referred to as "Owner(s) in Fact". If an employee is subject to one of these provisions, the employer should pay "scale" wages and make fringe benefit contributions of not less than 40 hours per week for 48 weeks per calendar year (i.e. not less than 1920 hrs per year or 160 hours per month).

OWNER IN FACT CONTRIBUTIONS

The Owner-in Fact clause of the agreements mentioned above also stipulates that, "employers shall not be required to submit additional contributions on behalf of a relative, who, in the absence of such contributions, does not qualify for any welfare benefits under a plan of benefits maintained by the Trustees". This means that Owner in Fact contributions are not required for qualifying "Owners-in-Fact" if they do not work enough hours to obtain or to maintain coverage. In order to maintain coverage under the Trustees' health and welfare plan, an eligible participant must earn at least 300 contributed hours per eligibility quarter (hours must be substantiated via payroll records, 941's, UC-3's and W-2's). Employees who earn fewer than 300 contributed hours per eligibility quarter will eventually lose health & welfare coverage. If an employee is subject to the "Owner in Fact" provisions but does not qualify for coverage under the Trustees' plans, Employers should not submit additional hours. The following is a guide to "Owner in Fact" reporting procedures:

- Actual hours worked < 300 contributed hours per quarter* = Report actual hours
- Actual hours worked equal to or greater than 300 contributed hours per quarter = Report minimum 160 hours per month

* It is possible to work less than 100 hours in a given month and still qualify for coverage. (i.e. 90 hours in January, 90 hours in February and 120 hours in March. Under this example, the individual would qualify for coverage and Owner-in-Fact contributions of 160 hours per month should be submitted.

INTENTIONAL OVER REPORTING OF HOURS

Employers found to have reported hours for employees which were not actually worked and which resulted in either procuring or continuing that employee's health & welfare coverage under one of the Trustees' plans will be charged with intentional over-reporting of hours. Examples of intentional over-reporting are as follows:

- Actual hours worked during the month = 85 hours but, employer reports 100 hours to Funds for the month; or
- Actual hours worked in calendar year 2008 = 1,050 hours; but, employer reports 1,440 hours to Funds during same time period.

Any employer found to have intentionally over-reported hours to the funds will be subject to a minimum fine of \$5,000 (per occurrence) and will be required to reimburse the Trustees for any medical claims paid over and above Health and Welfare contributions paid in during the intentionally over-reported period. An example of the application of EIT's "Intentional Over-Reporting" policy follows:

- Reported 1,200 hours in a calendar year at \$11.33 per hour = \$13,596 total Health & Welfare contributions
- Actual hours worked in the same calendar year total 500 hours at \$11.33 per hour = \$5,665 total Health & Welfare contributions earned
- Over reported contributions = \$7,931 (\$13,596-\$5,665)
- Claims paid by the Trustees during the ineligible period = \$25,000
- Amount employer must reimburse the Trustees = \$17,069 (\$25,000-\$7,931)
- Plus the \$5,000 fine for a grand total of \$22,069

Under this example Pension Plan 5 contributions for the affected participant will also be reduced by 700 hours multiplied by the applicable rate. Additionally, Pension credited hours (if applicable) will be reduced by 700 hours.

If you have any questions, please call Mike Krantz at the Fund Office. He can be reached at (312) 782-5442, ext. 279.

Sincerely,

Electrical Insurance Trustees