

EMPLOYER CONTRIBUTIONS AND COLLECTIONS

Guidebook • January 2019



The purpose of this guidebook is to help contributing signatory employers and/or their payroll agent(s) understand what is required of them in order to make contributions for covered employees working under a collective bargaining agreement between the employer and I.A.T.S.E. or one of its affiliate Local Unions for which contributions are due to the I.A.T.S.E. National Benefit Funds (“Funds”).

The Trustees of the Funds have prepared this guidebook to outline policies and procedures regarding the remittance and collection of employer contributions on a “systematic, reasonable and diligent” basis. The Trustees are authorized and required to make these efforts to collect whatever is due and owing by the Agreement and Declaration of Trust for each Fund (Health & Welfare, Pension, Annuity, and Vacation). In addition, this guidebook will help to summarize the Trustees’ policies with respect to the refund of contributions, interest on delinquent contributions and required information in order for the Funds to accept and credit such contributions to participant benefit accounts.

This summary is not intended to replace the terms of the Agreement and Declaration of Trust to which you are bound nor fully describe applicable policies. The Trustees reserve the right to amend any policy described herein at any time.

The Board of Trustees
Revised September 2018

GENERAL GUIDELINES FOR CONTRIBUTIONS

Employers are required to remit contributions to the Funds if they are signatory to a Collective Bargaining Agreement (“CBA”) with the I.A.T.S.E. or one of its affiliate Local Unions that is acceptable to the Trustees of the Funds and obligates them to make such contributions. An employer may utilize the service of a payroll company to act as its agent, but such engagement does not diminish the obligation of the signatory employer. The CBA must be in effect as of the dates of work being reported as performed, or on automatic renewal or extension, in order for contributions to be accepted.

The CBA must state that the employer is bound by the Agreement and Declaration of Trust of the Fund(s) to which it is contributing, or a fully executed Trust Acceptance Document (“TAD”) must be submitted with the CBA. TADs are not acceptable in lieu of a CBA, and are only valid in conjunction with a duly executed CBA, not as a stand-alone document. The contribution rates in the CBA must comport with the required rates of certain of the Funds’ Plans which have such requirements as described below.

Currently, Health & Welfare Plan A has required minimum daily rates, and only CBAs requiring the minimum daily contribution will be accepted. In addition, Pension Plan B has benefit rates associated only with certain daily contribution levels. Daily contribution rates other than those dictated by the Pension Plan (which can be found in the Plan B Summary Plan Description booklet) will be accepted, but employees will be credited with the benefit associated with the next lowest contribution level.

I.A.T.S.E. Local Union affiliates may participate in the Funds with respect to their employees via a properly executed Participation Agreement(s).

Contributions are due for all employees working in positions covered under an IATSE contract, regardless of their union membership status.

Note that all employers are required to submit a Company Data Sheet, setting forth the employer name, Employer ID number (EIN/Federal Tax ID), contact information, any dbas, corporate status and any parent or affiliated entities.

How To Report Contributions

Complete remittance reports must accompany contributions in order for the employees to be credited. Contributions received without a properly

completed remittance report will be returned. We ask that all reports be clearly printed or typed in order to facilitate proper processing. The following information is required for each remittance report submitted:

Report Header (*Identifying report information*)

- **EIN of Signatory Employer**
Note: All reports submitted without an EIN will be returned.
- Signatory Employer Name
- Employer Address
- Name, Phone Number and E-Mail Address of Person Preparing Report
- Name of Production or Venue being reported
- Production Location for each Employee for whom you are reporting.
 - This information should include the city and state where the production/venue is located. If the production changes location, or takes place at multiple locations, you must separately identify all the locations and the applicable dates.
 - Employers or their agents must identify whether any of the work is performed in Puerto Rico, and if so, which contributions are attributable to work in Puerto Rico.
 - If an employee works in more than one location during one reporting period, especially in Puerto Rico and another location in the U.S., the work in each location must be reported on separate remittance reports with rates applicable to each location.
- Type of Production, e.g. Film, Trade Show, Commercial, Music Video, Road Tour, etc. must be included
- The Union (Local or IATSE) that is Party to the CBA
 - If the contractual contribution rate is based on work location, the Local Union with geographical jurisdiction must be provided. If the contractual contribution rate is based on hire location, the home Local must be provided, unless the employee was hired outside of the geographical jurisdiction of his/her home local.
- Start and End Dates of Work Period Being Reported
 - Work dates *must* fall within the same calendar month for proper crediting. If reporting for a week or other period that crosses into the following month, that week or other period must be put on a separate report.

- Reports showing only pay dates are not acceptable. The actual work dates must be included.

You cannot combine months or years on one report. This is especially critical at year end. Reports crossing from December to January of the next year will be returned for correction.

For Each Employee Being Reported You Must Furnish:

- Social Security number –
 - This is *required* is permissible under various State regulations regarding social security number protection. It is currently the only way to uniquely identify employees.
- Last Name, First Name and Middle Initial, if known
- Work Units (hours, days, weeks, gross wages, etc.) for each applicable Fund and in accordance with the rate specified in the CBA.
 - Type and number of units (e.g. days, hours, etc.) on which contributions are based and the Funds to which they apply must be clearly labeled
 - If the salary on which a contribution is based is not the full gross (e.g., adjusted wages, scale wages, straight time wages, etc.), the amount on the remittance report for each employee must be the salary on which the contribution is based and calculated pursuant to the terms of the CBA. In addition:
 - **Full** gross wages must also be reported for the Annuity Fund regardless of what wage the contribution is based on. Refer to the Annuity Fund reporting requirements in this booklet for more details.

Report Footer (*Summation of reported employees and totals due*)

- Total units due each Fund for all listed employees
- Rate for each Fund pursuant to the CBA or a duly signed sideletter
- Total contributions due for each Fund

General Reporting and Contribution Requirements:

- Contributions must be paid for any work unit or portion thereof for which each employee is entitled to wages from the employer, including paid vacation or holiday, unless specifically excluded by the terms of the CBA.

- The Fund Office will accept remittance reporting forms in any format but only if all necessary information is clearly presented.

CBAs containing language permitting individual employees to choose the Fund(s) to which contributions should be made or the rate of such contributions are not permissible. Similarly, CBAs allowing an employee otherwise eligible for contributions to opt out of contributions are not permitted. Agreements containing language with either of the employee choice provisions described in this paragraph will be rejected.

Employee deferrals are permitted, as described below, to the Annuity Fund under certain circumstances. No other employee deferrals or contributions (pre- or post-tax) are permitted under any other IATSE National Benefit Fund.

All Funds to which contributions are due for the same rate group must be reported on a single report except for salary deferrals (401(k)). Sending separate reports for each Fund may result in late fees or shortage billings.

Fund Specific Requirements

For the **IATSE National Pension Fund**:

- Employers **must** report the **number of days worked** and/or paid. You need to include all such days regardless of whether a contribution was required for that day or whether the contribution rate is based on days pursuant to the terms of the CBA. No employee can receive credit toward a pension benefit without the correct reporting. If the contribution rate you are computing for Plan C is based on shifts, hours, or by performances worked, etc., you must also report those units for purposes of the payment computation. Plan B requires a daily contribution rate.

Again, you must report days worked whenever contributing to the Pension Fund. Absent proper reporting, the remittance form will be returned.

For the **IATSE Annuity Fund**:

- Employers must report **full** gross wages for all employees covered by the CBA, even if contributions are not based on salary. If the contribution rate is based on an adjusted salary, or a salary other than the full gross wages, then you must report both the adjusted and full gross wage. This information is required to ensure compliance with Internal Revenue Code limits.
- Failure to identify both the full gross wages and the contribution-based wages will result in the Fund Office using the reported wages for both IRS reporting and contribution calculation.
- The Internal Revenue Code (Section 401(a)(17)) sets the maximum annual compensation amount for which you are permitted to make a contribution to a retirement plan. The Fund cannot accept contributions on compensation above that limit. Such limits may change annually. Consult your tax advisor or the IRS regarding the amount of the limit for a given year. Any contributions on compensation amounts in excess of this or any other IRS limit will be returned.

It is imperative that you properly report full gross wages on every reporting form to the Annuity Fund. Reports that do not contain wage data will be returned.

- For **Salary deferrals under the IATSE Annuity Fund** –
 - Employee salary deferrals are permitted only under the two categories of CBAs listed below and only if the agreement provides for salary deferrals.
 - 1. CBAs that provide for an employer contribution of 3% or more of salary: If the CBA bases the employer contributions on an amount that is less than gross wages, then salary deferrals can only be made on the wages for which contributions are owed. For example, if the CBA provides that the employer contributes 3% of scale wages each week, an employee’s salary deferral

can only be calculated on that employee's scale wages (not gross wages).

2. Motion picture agreements that do not provide for a 3% employer contribution but are one of the agreements listed below, provided such agreement allows deferrals to the IATSE Annuity Fund:

- Theatrical and Television Motion Picture Area Standards Agreement
- AICP Multi-State Supplement to the AICP West Agreement
- Single Signatory (i.e., one-off) Theatrical Motion Picture and Television Agreements
- Low Budget Theatrical and Television Motion Picture Term Agreements
- Television Term Agreements
- Music Video Production Agreements
- Major Features and Television Agreements
- Participation agreement with a chartered Studio Mechanics Local of IATSE

Note that not all agreements falling under the eligible types listed above provide for deferral contributions to the IATSE Annuity Fund. Please check the agreement under which you are submitting prior to submitting any deferral contributions.

Note that Highly Compensated Employees (as described below) cannot defer salary under this second category of agreement.

- Before salary deferral (401(k)) contributions may be accepted, **an executed salary deferral form must have**

been completed and received by the Fund for each employee making such deferral, and for whom you are remitting such deferral. Such form must be signed by the employee and you, the employer. This form is available on the Fund's website, www.iatsenbf.org.

- The Fund cannot accept pre-tax salary deferred employee contributions absent language in the CBA or TAD allowing for such contributions.
- The maximum amount of salary an employee can defer is 85% per deferral. However, employees may not defer more than the annual maximum amount set forth in the Internal Revenue Code Section 402(g).
- As noted above, **Highly Compensated Employees** working under any of the above-listed CBAs (or Participation Agreements for Local Union Staff), except for agreements requiring an employer contribution of 3% of wages or more, are not eligible to make salary deferrals. An employee is “Highly Compensated” and, therefore, not eligible to defer in that year, if he or she received compensation in the prior year above the IRS threshold (\$120,000 for 2018) from any one employer that participates in the Annuity Fund (including entities in the same controlled or affiliated service group of that employer). The IRS compensation limits may change from year to year. Please consult your tax advisor or the IRS for the limits.
- In order to verify who is a Highly Compensated Employee, participating Studio Mechanics Locals under a participation agreement for their staff must provide to the Fund Office, in a timely manner, the information on all of their employees' compensation for all relevant work periods (generally the current and prior year). This includes providing copies of IRS Form W-2s for the prior year for all employees who defer. Employees of other employers may be contacted by the Fund to verify

their prior year's compensation and will be required to provide the requested information as a condition of participating in the salary deferral portion of the Plan.

- All remittance reports for salary deferrals, although on a separate remittance report, must be submitted at the same time and in the same envelope or package as the remittance report for the employer annuity contributions.

For the **IATSE National Health & Welfare Fund Plan C**

- Contributions are credited to participant CAPP (Contributions Available for Premium Payments) accounts based on the date the contributions from you, the employer, are **received** by the Fund. The actual work period, mailing date, check date or postmark date are irrelevant for purposes of when the contributions are credited and made available to the participant for coverage.
- Your due date for making such contributions is either outlined in the CBA, or set forth in the Trust Acceptance Document (TAD) or, if not, is described later in this guidebook. Contributions will be credited to participants based on the date such contributions are **received**, regardless of the due date for such contributions. The due date for the contributions does not affect the date that the contributions will be available to a participant for coverage.
- Eligibility for coverage is determined each quarter. Contributions received through the end of the contribution quarter are available for one quarter of coverage starting two months later. The cut-off dates for the **receipt** of contributions for each coverage quarter are:
 - > January 31st for April 1st coverage
 - > April 30th for July 1st coverage
 - > July 31st for October 1st coverage
 - > October 31st for January 1st coverage

- If the Fund's Plan C receipt cut-off date falls on a day when the Fund Office/Lockbox is closed (e.g. holiday, weekend, etc.), your contribution must be **received** on the last day of the month **prior** to the cut-off date during regular operating hours (Monday through Friday, 9 a.m. to 5 p.m., EST). Contributions received after the cut-off date, for whatever reason, will be credited in accordance with the schedule in the Fund's Plan C SPD, as summarized above.

- Please note that contributions made pursuant to a CBA which specifies an employer contribution rate equivalent to the Health Plan C CAPP rate are considered employer contributions for covered work already performed and are **not** insurance premiums. For such an agreement:
 - Although the Fund Office generally sends all Plan C contributing employers notice of CAPP rate changes, employers have an obligation to monitor the amount due under the Agreement to which they are signatory. The Funds' website always contains notices of rate changes and keeps current rates posted.
 - Contributions must be for work performed and you cannot pre-pay monies to the Health & Welfare Fund
 - Additional requirements apply to CBAs which base the contribution on the CAPP rate. Contact the Funds' Contracts and Contributions Department for a copy of such requirements.

- Only employer contributions can be credited to a Health & Welfare Fund Plan C CAPP account. All contributions made by an employer will be treated as an employer contribution and credited based on the receipt date.

No employee contributions may be credited to Plan C CAPP accounts.

No employer payments for participant co-payments are allowed.

For the **IATSE National Health & Welfare Fund Plan A**

- Plan A has specific required daily (or allowable blended daily) rates, and only CBAs requiring the specific daily (or allowable blended daily) contribution rate will be accepted. Contributions at rates lower than these specific rates cannot be credited and health eligibility will not be earned based on such days. For information on the current daily rates, please check the Funds' website at www.iatsenbf.org or contact the Fund Office.

For the **IATSE Vacation Fund:**

- The vacation benefit is taxable by the employer as a part of the employee's wages.
- The contribution amount should be sent to the Fund Office as an employer contribution, and the employer should include the vacation contribution amount in the employee's taxable wages for reporting and withholding, and show it as a deduction on the employee's pay stub. If you have any questions, please contact the Fund Office Accounting Department at 1-800-456-3863.

IMPORTANT NOTES

- The Fund Office will return to the employer or its payroll agent any contributions received without **all** the information detailed above.
- Fund Office representatives will attempt to obtain any and all information necessary to process contributions for which data is missing, not readable or inconsistent with the terms of the CBA. Should such attempt fail to obtain the necessary information, contributions, along with the accompanying reports, will be returned.

In no event will contributions be accepted absent a fully executed CBA (or participation agreement, as applicable) between the IATSE, one of its affiliate local unions, and you, the employer.

- Remittance reports can only include one rate group for one Local applicable to all employees on that report. In no event can different rates be included on the same report.
 - If a contractual contribution rate within the CBA changes during a reporting period (such as mid-week or mid-month), the contributions must be split into two separate reports for that period. One report must reflect the work dates within that period at the old rate and the other must report the work dates at the new rate.
 - For salary deferral reporting, you are required to remit a separate report identifying those individuals making pre-tax payroll contributions. The due dates for such remittances are dictated by the IRS and are so stated later in this guidebook.
- Payment of shortages, delinquent contributions, interest, etc., **must be on a separate report, with a separate corresponding payment.** Do not combine or submit such payments along with a current remittance report/payment. The Funds have a special Lockbox payment address for such payments identified later in this guidebook. Failure to submit these payments separately may result in additional interest assessments.
- Any adjustments to a previously submitted report must be labeled as “adjustment.” The “adjustment” report must identify the original check number as well as the information contained in the original report. Again, such “adjustment” reports cannot be submitted with current reports. Please mail and identify them separately.

CREDITS FOR OVERPAID CONTRIBUTIONS

The Funds do not permit credits to be taken on any report.

- Reports received with credits taken will be returned or processed with a shortage, which will be assessed to you as a delinquency, including interest charges.

- Refunds of contributions made by mistake of fact or law (policy is further described later in this guidebook) must be requested in writing to the Fund Office. You can mail your request to the attention of the Contracts & Contributions department or email your detailed request to *refunds@iatsenbf.org*. Be sure to include supporting documentation and details of the error along with any request for a contribution refund.

All requests for refunds must be received by the Fund Office within twelve (12) months of the date contributions were originally received.

PAYMENT OF CONTRIBUTIONS

No personal checks from an employer are permissible.

- **Contribution checks, along with the appropriate reporting forms, should be mailed to the Funds' Lockbox:**

IATSE National Benefit Funds
P.O. Box 11944
Newark, New Jersey 07101-4944

- **Payments for delinquent contributions, interest on late contributions or shortages, along with the payment coupon or a reporting form, should be mailed to the Funds' Lockbox at:**

IATSE National Benefit Funds
P.O. Box ~~11946~~ 11944
Newark, New Jersey 07101-~~4946~~ 4944

Our address for all other correspondence is:

IATSE National Benefit Funds
417 Fifth Avenue
Third Floor
New York, New York 10016-2204

Contribution checks should be made payable to:

IATSE National Benefit Funds

Unless otherwise specified in the CBA, contributions are due at the Lockbox by:

For Weekly or Limited Engagement Contributors –

- Payments must be received one week (7 calendar days) following the close of the week of employment

For Monthly Contributors –

- Payments must be received by the 10th day of the month following the month of employment
- Contribution due dates cannot be based on pay dates; they must be based on actual dates of work.

For employee pre-tax salary deferrals to the Annuity Fund –

- Payments must be received by the applicable due date in the CBA, except that such deferrals must be received no later than the 15th day of the month following the month in which the deferral was made, regardless of any provision in the CBA to the contrary.
- If the contribution due date is not a business day, contributions must be received by the Fund Office or Lockbox no later than the end of business on the last business day before the due date.

For all contributors, any negotiated due date cannot be later than the end of the month following the month of employment.

- Notwithstanding any provision in a CBA, the due date for contributions cannot be later than the end of the month following the month of employment unless the Trustees specifically approve such later date, except that no specific permission is required for a quarterly due date for Health Plan C contributions (only) in a CBA.
- If the CBA does not provide for a due date, then contributions are due the 10th of the month following the month of employment.

**The Fund Office is generally open 9 a.m. to 5 p.m. weekdays.
The Office is closed on weekends and holidays. Our
operating hours and scheduled holidays can be found on
our website, www.iatsenbf.org.**

DELINQUENT CONTRIBUTIONS

- Contributions are considered delinquent when they are received in the Fund Office (via our Lockbox or in the Fund Office) after the applicable due date. Delinquencies include, but are not limited to:
 - Contributions timely paid but not paid in full,
 - Contributions made without an accompanying fully-completed, legible remittance reporting form with all the information required as described earlier in this guidebook,
 - Remittance reports received without the applicable contribution payment(s), or
 - Contributions due (but not paid) as determined by an audit by the Fund Office or its Auditor.

Interest charges on delinquent contributions:

Interest will be charged for all contributions that are received late. The interest rate is the “Prime Rate”^{*} plus 1% per annum. Interest is assessed for each month, or part thereof, that contributions are delinquent. Interest will be computed beginning with the due date for such contributions.

** “Prime Rate” shall be the prime rate published in The New York Times or the Wall Street Journal on the nearest January 1st or July 1st (or if such rate is not published on January 1st or July 1st, then the next business day following January 1st or July 1st, respectively, on which such rate is published) preceding or coincident with the period(s) for which the amount is delinquent.*

Policy regarding a refund of contributions:

Section 403(c)(1) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), generally provides that the assets of an em-

ployee benefit plan “shall never inure to the benefit of any employer and shall be held for the exclusive purposes of providing benefits to participants in the plan and their beneficiaries and defraying reasonable expenses of administering the plan.” Under an exception to the “exclusive purpose” rule which is set forth in Section 403(c)(2)(A)(ii) of ERISA, the Trustees of a multi-employer plan are not prohibited from returning to an employer the contributions it made under a good faith mistake of fact or law, as long as the return of contributions is made within six (6) months of the Trustees’ determination that the contributions were made by such mistake. The Trustees are authorized to return mistaken contributions pursuant to the Trust Agreements governing each of the IATSE National Benefit Funds, to the extent permissible by law.

The Trustees of the I.A.T.S.E. National Benefit Funds, therefore, promulgate and adopt these guidelines, recognizing that the refund of contributions made by a good faith mistake of fact or law is a question properly addressed to the Trustees’ judgment as fiduciaries to the Funds. To this end, the Trustees acknowledge that they have a duty to treat contributions that have been made as a result of a good faith mistake of fact or law in a manner that is “solely in the interest of participants and beneficiaries” and in a prudent manner, as required by Section 404 of ERISA. The Trustees further acknowledge that it is prudent to treat contributing employers in a fair and businesslike manner. Fairness to an employer who has made a mistaken contribution, in all cases, must be balanced against the effect of returning such contribution upon the Fund which received the contribution and its participants and beneficiaries.

It is the Trustees’ policy that contributions that have been applied to an amount that already has been distributed to a participant or beneficiary cannot be returned, as the Fund no longer possesses the amounts contributed by the employer. Similarly, contributions that have been used for or have been the basis for the purchase of benefits, insurance or other coverage cannot be returned. In addition, contributions that have been the basis for benefit or credit eligibility cannot be returned absent extraordinary circumstances. Such contributions are necessary to pay for the credits of eligibility which have been recorded, as of the close of plan year in which such contributions were received. When the Trustees have determined that contributions have been made by mistake of fact or law, and are therefore eligible to be returned to the contributing employer, absent extraordinary

circumstances, no contributions to the Funds may be returned to such employer more than twelve (12) months after the contributions have been received, notwithstanding the fact that the contributions were found to be made by a mistake of fact or law.

1. No refund of mistakenly made contributions shall be made except to the extent that such refund complies with the requirements of Section 403(c)(2)(A)(ii) of ERISA.

2. The Trustees, or their duly authorized representative, shall have the sole and exclusive authority to determine whether a contribution has been made by a good faith mistake of fact or law and shall have full discretion in applying the Funds' rules regarding the return of mistaken contributions. If the Trustees discover or otherwise determine that an employer has submitted false, fraudulent, or unreliable evidence in support of its claim for a refund, they may, in their sole and absolute discretion, determine whether, and in what amount, if any, a refund shall be issued.

3. Absent extraordinary circumstances and the Trustees' approval, no refund shall be made of contributions that have been distributed, spent, or which have been relied upon in determining the basis of coverage or eligibility. Whether or not such amounts have been spent will be determined as follows:

Please read below (#8 and #9) for minimum refund request amounts and fees for such refunds.

- **Annuity Fund:** If the refund requested equals or exceeds \$2,500 contributed for a particular individual, the Fund will track the investment experience of those contributions requested for refund to determine what, if any, amount remains available for refund. If there was an investment loss on those contributions, the Fund will deduct the amount of that loss before refunding the contributions, regardless of the participant's total current account balance, and will not refund more than the amount that remains available in the participant's account at the time of processing the refund. For any individual for whom the employer is requesting a refund of less than \$2,500 contributed

on behalf of that individual, the Fund will look only at the participant's current account balance to determine if there are amounts available to refund to the employer; the Fund will refund up to the total amount of the employer's mistaken contributions from the amounts available in that individual's account at the time of processing. Health & Welfare Fund Plan A: The Fund will refund mistaken contributions to the employer so long as such amounts were not attributable to days of work already used for coverage. Employer contributions for days of work already used for coverage will not be refunded.

- **Health & Welfare Fund Plan C:** The Fund will look at the participant's current CAPP account balance to determine if there are amounts available to refund to the employer. The Fund will refund up to the total amount of the employer's mistaken contributions from the current unused portion of the individual's CAPP account at the time of processing the refund.
- **Pension Fund (Plans B and C):** The Fund will refund mistaken contributions to the employer so long as such amounts have not been the basis for determining the participant's credits or eligibility for benefits. If the affected employee has already retired or otherwise received benefits based on the contributions, such contributions are not available for a refund.
- **Vacation Fund:** The Fund will refund mistaken contributions to the employer if the amounts attributable to such contributions have not already been distributed and are available for a refund.

4. In no event, absent extraordinary circumstances, shall contributions be returned unless the employer requests a refund (and provides sufficient documentation to substantiate such request) within 12 months after the Fund Office's receipt of such contributions, notwithstanding the fact that the Trustees determined that the contributions were made by mistake of fact or law.

5. No refund of mistaken contributions shall be made if, in the discretion of the Trustees, after analysis of each affected Fund's financial condition, investments, and funding methods, a refund of contributions would prejudice the financial position of any Fund or jeopardize its actuarial soundness.

6. Any interest or investment income earned on mistaken contributions shall not be returned to an employer. Any investment losses may be deducted before a refund of mistaken contributions.

7. Contributions may only be returned, in accordance with these guidelines, within six (6) months of the Trustees' determination that the contributions were made as a result of a good faith mistake of fact or law.

8. No refunds will be issued if the refund requested is \$100.00 or less except as specified below. A single refund request that covers contributions made to one or more than one Fund will count toward the \$100 minimum. Contributions for multiple employers or productions/venues will not be combined for purposes of the \$100 minimum.

9. Administrative processing fee for refunds:

- The Funds will charge an administrative processing fee on all refunds. The charge will be 5% of the amount being refunded, with a minimum charge of \$100. This fee will automatically be deducted before the refund is issued to an employer.
- Exceptions to the Administrative Processing Fee and \$100 minimum refund request:

There will be no fee (and no \$100 minimum) on refunds of:

- Contributions returned prior to the Fund Office processing and posting the monies to participant accounts (excluding overpayments made in error after the applicable remittance reports have been processed),
- Pre-tax employee 401(k) salary deferrals,
- Contributions in excess of IRS limits such as 401(a)(17), 415, 401(k), etc.,
- Contributions pursuant to MPIPHP home plan documents if evidence is provided clearly demonstrating that the home plan paperwork was not timely received by the payor, or
- Contributions held in escrow awaiting a copy of a CBA if the employer requests the return of such contributions fifteen days or less from the date of the Funds' letter requesting the CBA. Absent a request for return within

that 15-day period, contributions held in escrow will be charged the 5% administrative processing fee (with \$100 minimum) applicable to refunds, which will be deducted before the monies are returned..

Should the actual expenses incurred by the Fund(s) to verify and process the refund exceed the applicable administrative processing fee, the Trustees reserve the right to deduct such expenses from any refund including, but not limited to, attorneys' fees and costs, accounting, auditing, actuarial and other professional fees or costs, or other administrative expenses.

10. The Trustees further note that an employer that believes that it is entitled to a refund of contributions must promptly notify the Fund(s) of its error in a written request, including the amount and date of payment and employment period at issue, the participant(s) on whose behalf the overpayment was made, as well as the applicable social security number(s). A full explanation of the occurrence, detailing the facts back to the original report(s) in which the error was made, is essential for proper processing.

11. Employers shall bear the full burden of proof that a payment was made erroneously.

12. Employers are not entitled to offset their current contribution obligation by the amount of the contribution claimed to have been made as a result of a good faith mistake of fact or law. Employers who attempt such an offset will be considered in default of their obligations under their respective CBA or participation agreement and the Funds' Trust Agreements, and all appropriate action will be taken to collect such overdue amounts, together with all penalties, interest, fees and costs in accordance with the Funds' delinquency procedures.

13. Employers seeking a return of overpaid contributions must be fully current in the payment of contributions owed to each of the Funds.

14. The Fund Office will acknowledge, in writing, receipt of a refund request, within thirty (30) days of receipt. If you do not receive an acknowledgement within 30 days you should follow up with the Fund Office to ensure that the request was received.

15. It is the employer's responsibility to keep track of all of its refund requests submitted to the Funds. If an employer believes a request has been submitted, but no refund was issued within six (6) months after the initial request, then it is the responsibility of the employer to contact the Funds within one (1) year of the Fund's receipt of the contributions. After one (1) year, the request will be deemed time-barred.

16. Refunds that are rejected or partially paid by the Funds will be deemed closed. Details are provided to the employer with the refund or rejection. The decision can be reviewed with the Funds but in no event more than six (6) months after the determination has been made.

These guidelines may be amended in whole or in part at any time by the Board of Trustees in its sole and absolute discretion. All determinations made and actions taken by the Board of Trustees (or its duly authorized representative) pursuant to these guidelines will be conclusive and binding. Further, any prior determination made by the Board of Trustees (or its duly authorized representative) pursuant to these guidelines shall not have any effect on subsequent determinations in accordance with these guidelines.

Payroll Audits

In order to comply with federal law, regulations and guidelines, the Trustees have established an Audit Committee to oversee the Payroll Audit Program. This Payroll Audit Program will verify that the correct payments for the appropriate Funds have been made for all covered employees. Audits will be conducted on a random, rotational or selective basis, as determined by the Trustees of the Audit Committee.

If there is a finding that the employer owes contributions in an amount that is 20% (or a higher percentage) more than the contributions the employer reported for the period audited, the employer will be responsible for the payroll audit expense; otherwise the Fund will bear the expense.

Collection Actions

Should it become necessary for the Trustees to institute a lawsuit in order to recover contributions owed to the Funds, the Trustees are authorized to collect liquidated damages equal to the greater of the interest incurred or

20% of the outstanding contributions. These amounts are in addition to the amount of the outstanding contributions and interest thereon.

Estimated Delinquencies

If an employer fails to submit remittance reports and payments when due or has failed to maintain accurate records permitting a payroll audit to verify the amounts owed, the Fund Office shall make a reasonable estimate of the amounts due. These estimated amounts, plus interest, become due and owing immediately, unless the employer can refute the estimate with clear and convincing documentation.

While this guidebook provides the information necessary for the proper remittance of employer contributions, you may have additional questions. Feel free to contact our office @ 1-800-456-3863 or 1-212-580-9092 and ask to be directed to the Contracts & Contributions Department.



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