**Section 2760.141 Use of Electronic Data Processing Media for Monthly or Quarterly Reporting**

a) Electronic Data Processing

Except as otherwise provided in subsection (b) or subsection (g), an employer shall file the reports required by Sections 2760.120 and 2760.125 by the use of an electronic data processing medium that meets the approval of the Director (see subsection (c)) in accordance with the following schedule:

1) for the period of February 1, 2013 through June 30, 2015, if the employer had 250 or more individuals in its employ (though not necessarily at the same time) during calendar years 2011 and 2012;

2) for the period of July 1, 2013 through June 30, 2015, if the employer had 100 or more individuals in its employ (though not necessarily at the same time) during calendar year 2012 but fewer than 250 during calendar year 2011;

3) for the period of January 1, 2014 through June 30, 2015, if the employer had 50 or more, but fewer than 100, individuals in its employ (though not necessarily at the same time) during calendar year 2012;

4) for the period of July 1, 2014 through June 30, 2015, if the employer had 25 or more, but fewer than 50, individuals in its employ (though not necessarily at the same time) during calendar year 2012; and

5) after June 30, 2015, for any one-year period of July 1 of a calendar year through June 30 of the immediately succeeding calendar year, if the employer had 25 or more individuals in its employ (though not necessarily at the same time) during the last calendar year completed immediately prior to the July 1 on which the period commenced.

b) Notwithstanding any other provision to the contrary, subsection (a) shall not apply for the period of January 1, 2014 through June 30, 2015 with respect to any employer that did not have at least 25 individuals in its employ (whether or not at the same time) during calendar year 2013.

c) The Director shall approve the use of electronic data processing media for reporting if he or she finds that:

1) all of the data required by the Director for monthly or quarterly reporting, as the case may be, are also provided by the employer on the electronic data processing medium; and

2) the employer's electronically data processed reports are compatible and readable by the electronic data processing equipment used by the Director without the need for any programming adjustment by the Director.

d) In addition to any other requirements of this Section regarding electronic filing:

1) reports submitted pursuant to this Section for any quarter ending after December 31, 2012 shall be submitted only through a file transfer protocol or through manual entry or a file import or upload onto an online system used by the Department; and

2) reports submitted pursuant to this Section for any month after December 31, 2012 shall be submitted only through a file upload onto an online system used by the Department.

EXAMPLE: During 2012, the employer has no more than 90 individuals in its employ at any one time. However, during the year, 11 of these individuals leave the employ of the employer and are replaced by 11 other individuals. Though the employer's labor force never exceeds 90 individuals at any one time, the employer had 101 individuals in its employ during 2012 for purposes of subsection (a).

EXAMPLE: During 2014, the employer has no more than 20 individuals in its employ at any one time. However, during the year, 7 of these individuals leave the employ of the employer and are replaced by 7 other individuals. Though the employer's labor force never exceeds 20 individuals at any one time, the employer had 27 individuals in its employ during 2014 and, therefore, is subject to subsection (a) for the one-year period of July 1, 2015 through June 30, 2016.

e) The failure of an employer that is subject to subsection (a) to report in the manner required by that subsection shall subject the employer to the penalties set forth in Section 1402 of the Act.

EXAMPLE: On August 20, 2015, an employer subject to the reporting requirements of subsection (a) for July 2015 attempts to mail a paper version of the report due for that month instead of filing it as required by subsection (a). The Department, however, does not accept paper versions of reports covering the first 2 months of a calendar quarter. On September 1, 2015, if that employer has not yet complied with subsection (a), it is delinquent in the filing of its July 2015 report, the penalty set forth in Section 1402 of the Act shall be imposed, and any payment it ultimately submits for the third quarter of 2015 shall be reallocated in accordance with 56 Ill. Adm. Code 2765.45 to reflect the payment of the penalty and a delinquency in contributions due. If the requirements of subsection (a) have still not been complied with before October 1, 2015, and the maximum penalty has not yet been imposed, the penalty will be increased on that date and the employer's payment again reallocated to reflect payment of the increased penalty and an additional delinquency.

f) When not required by subsection (a), the reports required by Sections 2760.120 and 2760.125 may be made by the use of an electronic data processing medium if it meets the requirements of subsection (c) and if the employer agrees to file both reports by the use of the electronic data processing medium.

g) The Director shall waive the reporting requirements of this Section with respect to reports covering any month commencing in the subsequent calendar year when the employer demonstrates that the Commissioner of the Internal Revenue Service:

1) has waived the electronic reporting requirements of Treasury Regulation 301.6011-2 (26 CFR 301.6011-2), as in effect on January 1, 2014, for the employer with respect to documents covering a calendar year; or

2) would have waived those requirements for the employer had they otherwise been applicable.

EXAMPLE: In February 2015, the Commissioner of the Internal Revenue Service notifies an employer that the requirements of Treasury Regulation 301.6011-2 have been waived with respect to Form W-2 data covering calendar year 2014, meaning that the employer will not be required to submit the data electronically in 2015. If the employer demonstrates the waiver to the Director, the Director will waive the requirements of subsection (a) with respect to reports covering any month commencing during calendar year 2015. However, unless the employer also demonstrates to the Director that the Commissioner has waived those requirements with respect to documents covering calendar year 2015, the Director will not waive the reporting requirements of this Section with respect to any month commencing during calendar year 2016.

EXAMPLE: The electronic reporting requirements of Treasury Regulation 301.6011-2 do not apply to the employer because the employer had fewer than 250 individuals in its employ in the prior year. If the employer believes, however, that it would otherwise qualify for a waiver of the Regulation's requirements, the employer may apply for a waiver from the Director, who will grant the waiver if the Director determines that the conditions for granting a waiver under this Part have been met.

(Source: Added at 39 Ill. Reg. 10755, effective July 27, 2015)