**Section 2765.65 Waiver Of Interest Or Penalty**

a) The Director is authorized to waive the payment of all or part of any interest or penalty upon proposed application and showing of good cause that consists of any or all of the following:

1) Where the delay was caused by the death or serious illness of the employer or a member of his immediate family, or by the death or serious illness of the person in the employer's organization responsible for the preparation and filing of the report or for making the payment.

2) Where the delay was caused by the destruction of the employer's business records by fire or other casualty without fault.

3) Where the Agency, in its written communication or through a specifically identified employee in oral communication directed to a specific employer account has affirmatively misled the employer as to its duties and obligations such that the charging of interest to the employer would violate the principle of equitable estoppel.

4) For the purposes of waiver of interest only: Where the employer relied to its detriment on a certificate issued by the Director pursuant to Section 2600 of the Act and the Director agrees, at a later date, that the certificate was issued in error, such waiver shall be granted from the date the erroneous certificate was issued to a date 30 days after notice that the original certificate was issued in error.

b) Where a delinquent employer enters into a Repayment Agreement and demonstrates to the Director the financial inability to pay an additional interest during the period of the Repayment Agreement, the Director may waive the interest which would have accrued during the period of the Repayment Agreement. The employer shall submit as evidence of its inability to pay:

1) Where available, a certified audit and statement of financial condition; or,

2) A copy of latest one year tax return and sworn statement regarding inability to pay and financial condition of business; and,

3) A statement that the financial condition could not have been controlled through reasonable business judgment and the evidence supporting this statement; and,

4) Evidence that it has paid all contributions accrued to date not subject to the Repayment Agreement.

c) The Director is authorized to grant a waiver of such additional interest for the period of the Repayment Agreement if his review of the evidence indicates that the payment of the additional interest imposed will force the employer to default on the agreement or force the employer into bankruptcy. If the employer fails to make the required payment of accrued contributions, interest and penalty during the period of the Repayment Agreement, such waiver of the additional interest is withdrawn.

d) The penalty for willful failure to pay contributions with intent to defraud cannot be waived by the Director for any cause.

(Source: Amended at 11 Ill. Reg. 12882, effective July 22, 1987)