**Section 2765.66 Waiver Of Interest Accruing Because Of Certain Types Of Employees For Periods Prior To January 1, 1988**

a) The Director shall find good cause for the waiver of all interest, accrued upon unpaid contributions which are due and owing for any period prior to January 1, 1988, if the contributions were based on the payment of wages in employment to an individual where:

1) The employer or its predecessor has not treated any individual holding a substantially similar position as an employee for purposes of the Act, or for Federal Unemployment Tax Act (FUTA), Internal Revenue Code or Social Security Act purposes, and;

2) The employer's treatment of such individual was in reasonable reliance upon:

A) A judicial precedent or an Internal Revenue Service letter ruling for the employer; or,

B) A past agency audit of such employer where there was no assessment attributable to the treatment of individuals holding positions substantially similar to the position held by such individual; or,

C) A long-standing industry practice recognized by a significant segment of the industry in which such individual or employer is engaged.

3) Example: Pursuant to this subsection, an employer requests a waiver of interest on contributions which were due and owing for the first quarter of 1987. Contributions for the first quarter of 1987 became due and owing on April 30, 1987 but had not been paid because the employer appealed a determination and assessment covering this period. The waiver, if granted would cover all interest which accrued from May 1, 1987 through the date that payment of the contributions was made. The employer must pay all contributions due for the first quarter of 1987 as a condition precedent to the granting of a waiver.

b) The provisions of Section 2765.74 shall not be applicable to requests for waiver under this Section.

c) The payment of all contributions assessed, within 30 days from the effective date of this Section or within 30 days from the date that such assessment becomes final, if such date is later, is a condition precedent to an application for waiver (see Section 2765.75) pursuant to this Section.

1) Example: During the course of a hearing pursuant to 56 Ill. Adm. Code 2725.200 et seq., the employing unit requests, on the record, that, if the subject assessment is affirmed, in full or in part, it be granted waiver pursuant to this Section. If it is recommended that the assessment be affirmed, in full or in part, the Director's Representative shall also recommend a decision with respect to the request for waiver. If such recommendation is to deny, objections may be filed in the same manner and within the same time limits as set forth in 56 Ill. Adm. Code 2725.275. If the request for waiver is granted, but the contributions assessed are not paid within 30 days from the date that the assessment becomes final, then the request for waiver shall be deemed to have been denied as of the date of the decision which had granted the waiver.

2) Example: An employer meets the requirements for waiver pursuant to subsection (a) above with respect to wages for services which were the subject of a determination and assessment which became final on February 13, 1988. If this employer has not yet paid this assessment, it has 30 days from the effective date of this rule to pay the contributions due and file its application for waiver.

3) Example: An employer meets the requirements for waiver pursuant to subsection (a) with respect to wages for services which are the subject of a determination and assessments which becomes final after the effective date of this rule. This employer has 30 days from the date that this assessment becomes final to pay the contributions due and file its application for waiver.

d) Notwithstanding any other provisions of this Part, no employer shall be entitled to a refund or credit of any interest paid prior to the adoption of this Section.

(Source: Amended at 17 Ill. Reg. 308, effective December 28, 1992)