**Section 2765.71 Waiver of Interest Accruing Due to a Delay in the Issuance of a Decision on a Protested Determination and Assessment**

a) The Director shall find good cause for the waiver of all interest accrued upon unpaid contributions due and owing pursuant to a Determination and Assessment for any period from the 181st day after the date on which the employer filed its sufficient Petition in protest to the Determination and Assessment (see 56 Ill. Adm. Code 2725.110) to 60 days after the later of the date of the decision of the Director in the matter (see 56 Ill. Adm. Code 2725.280) or the date that the Department mails the employer a statement of the balance due on its account as a result of the recommended decision in the matter (see 56 Ill. Adm. Code 2725.270) or the decision of the Director in the matter, but only to the extent that the delay was not caused by the employer or its agent.

1) EXAMPLE 1: The employer files its sufficient Petition to protest a Determination and Assessment on March 1, 2017. After completion of the administrative process within the Department, a decision of the Director, affirming the Determination and Assessment, is issued on October 16, 2017. On October 19, 2017, the Department mails the employer a statement of the balance due on its account as a result of the decision of the Director. Pursuant to this subsection (a), this employer will be entitled to a waiver of interest from August 29, 2017 (the 181st day after the date on which the employer filed its Petition) to December 15, 2017 (60 days after the Department mailed the employer a statement of the balance due on its account as a result of the decision of the Director).

2) EXAMPLE 2: The employer files a sufficient Petition to protest a Determination and Assessment on March 1, 2017. A hearing is scheduled for April 3, 2017. The employer's accountant is not available on April 3, 2017, so the employer requests a continuance until April 5, 2017. Because the Director's representative already has hearings scheduled for the month of April, a continuance is granted until May 12, 2017, the next available hearing date. After completion of the administrative process within the Department, a decision of the Director, affirming the Determination and Assessment, is issued on October 16, 2017. On the same day, the Department mails the employer a statement of the balance due on its account as a result of the decision of the Director. Pursuant to this subsection (a), this employer will be entitled to a waiver of interest from October 7, 2017 (the 181st day after the date on which the employer filed its petition plus the 39 day delay attributable to the employer's request for a continuance) to December 15, 2017.

3) EXAMPLE 3: An employer association requests that the Director not make any decision on Determination and Assessments based on a particular issue while the legislature is discussing a possible change in the statute on that issue. Any delays in issuing decisions on that particular issue caused by the Director agreeing to hold those cases are not attributable to the employer or its agent.

4) EXAMPLE 4: On March 1, 2017, an employer files a sufficient Petition to protest a Determination and Assessment. A hearing is held on April 3, 2017. At the conclusion of the hearing, the employer's attorney requests 45 days in which to submit a brief in support of its position. Because this additional delay is attributable to the agent of the employer, these additional days are added in determining the extent of waiver to be granted to this employer.

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, all penalties due and any interest not subject to waiver, within 60 days after the date of the decision of the Director or the date that the Department mails the employer a statement of the balance due on its account as a result of the decision of the Director in the matter, whichever is later, is a condition precedent to a waiver of interest pursuant to this Section.

EXAMPLE: On July 1, 2016, an employer files a sufficient Petition in protest to a Determination and Assessment. The Director issues a decision affirming the Determination and Assessment on March 1, 2017. On the same day, the Department mails the employer a statement of the balance due on its account as a result of the decision of the Director. In the decision, the Director grants a conditional waiver underthis Section from December 29, 2016 to April 30, 2017. December 29, 2016 is the 181st day after the date on which the employer filed its sufficient Petition in protest to the Determination and Assessment. If this employer has not yet paid this assessment, it has until April 30, 2017 to pay the contributions due. If the contributions are not paid by April 30, 2017, the condition precedent is not met, and the employer is not entitled to waiver under this Section.

d) The granting of waiver under this Section does not foreclose the granting of waiver to the employer under another Section of this Part for another period.

e) When no objection is filed to the recommended decision of the Director's representative and that recommended decision becomes the decision of the Director pursuant to 56 Ill. Adm. Code 2725.270(d), the date of the Director's decision shall be the date on which the recommended decision of the Director's representative becomes the decision of the Director.

EXAMPLE 1: The recommended decision of the Director's representative is issued on October 2, 2017. If no objections are filed by October 22, 2017, the recommended decision becomes the decision of the Director on October 23, 2017. October 23, 2017 is the date of the decision of the Director.

EXAMPLE 2: The employer files a sufficient Petition to protest a Determination and Assessment on March 1, 2017. The recommended decision of the Director's representative is issued on October 2, 2017. The employer calls the Department on October 3, 2017 to ask for a statement of the balance due on its account as a result of the recommended decision. The Department mails the employer the statement on October 4, 2017. The employer does not file objections by October 22, 2017, so the recommended decision becomes the decision of the Director on October 23, 2017. This employer will be entitled to a waiver of interest from August 29, 2017 (the 181st day after the date on which the employer filed its petition) to December 22, 2017 (60 days after the date of the decision of the Director).

EXAMPLE 3: The employer files a sufficient Petition to protest a Determination and Assessment on March 1, 2017. The recommended decision of the Director's representative is issued on October 2, 2017. The employer calls the Department on October 3, 2017 to ask for a statement of the balance due on its account as a result of the recommended decision. The Department mails the employer the statement on November 6, 2017. If no objections are filed by October 22, 2017, the recommended decision becomes the decision of the Director on October 23, 2017. This employer will be entitled to a waiver of interest from August 29, 2017 (the 181st day after the date on which the employer filed its Petition) to January 5, 2018 (60 days after the Department mailed the employer a statement of the balance due on its account as a result of the decision of the Director).

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)