

IMPORTANT NOTICE: FRINGE BENEFIT CONTRIBUTION INFORMATION

EIT is providing employers with this notice to help reduce errors made when making fringe benefit contributions to EIT. This notice contains important information about the payroll reporting rules and will be updated if the rules change.

1. OWNER IN FACT

Employees who are related to one of the owners of the employer and employees who exercise significant control over the management or operations of the employer's business as set forth in *Section 3.33 of the Principal Agreement (Section 16.12 of the Communication Agreement, Section 6.14 of the Residential Agreement)* are referred to as "Owner(s) in Fact". If an employee is subject to one of these provisions, the employer should pay wages and make fringe benefit contributions on behalf of such employee on a full-time basis of not less than 40 hours per week for 48 weeks per calendar year (i.e. not less than 1920 hours per year). If an Owner in Fact works more than 1920 hours, fringe benefit contributions must be made on behalf of such employee for all hours worked.

2. REPORTING HOURS WORKED

Except for the above provisions applicable to Owners in Fact, reporting any hours which were not actually worked by an employee is a violation of the agreement and a violation of federal law. Consequently, payroll reports should include only the actual hours worked and wage paid under the collective bargaining agreement.

The following practices are prohibited and may result in a payroll audit finding:

- **Over-reporting hours:** reporting more hours than were worked.
- **Under-reporting hours:** reporting fewer hours than were worked.
- **Reporting non-employees:** reporting individuals who are not employed by a participating employer.
- **Reporting employees who do not receive wages:** e.g., reporting volunteers, unpaid family members or any worker who is not compensated by hourly wages.
- **Reporting employees who have been transferred to an employee leasing company or a "Professional Employer Organization."** *NOTE: The definition "Employee" or "Employees" in the Principal Agreement refers to Journeyman, General Foreman, Foreman, or Apprentices working for a contributing Employer who is issued a Form W-2 by that Employer for purposes of Federal payroll taxes.*

3. MAINTAINING RECORDS

All employers are required to keep and maintain records which substantiate the payroll reports submitted to the Trustees. The Employee Retirement Income Security Act ("ERISA") requires employers to keep records which are "sufficient to determine the benefits due or which may become due" to each employee. 29 U.S.C. 1059(a)(1). If an employer fails to substantiate the hours reported to the Trustees, or fails to schedule an audit requested by the Trustees, the Trustees may cancel all hours reported by that employer.

4. ADDITIONAL COMPENSATION

If an employer wishes to reward an employee for good work, loyalty, longevity, etc., the employer may do so in the form of an annual bonus. A one-time per year bonus is excludable from gross wages for fringe benefit contribution purposes only. The employer should clearly document the bonus for payroll auditing purposes. If an employer provides an employee with more than one bonus in a calendar year, the employer will be required to pay contributions on all but one bonus.

5. APPRENTICES

Apprentices should be reported at their corresponding wage rate as established by the applicable collective bargaining agreement (i.e. 55%, 65%, etc) and as maintained by the IBEW-NECA Technical Institute ("INTECH"). If Apprentices are paid a "premium" over their established rate, the percentage contribution made to the Trustees must be based on the actual gross wages paid to the apprentice including any "premium" rate. When you are notified by INTECH of a change in an apprentice's level, please contact the Fund Office for payroll reports corresponding to the new apprentice level.

6. FOREMAN AND GENERAL FOREMAN

The "premium" over the journeyman's wage rate for foremen and general foremen is excludable from gross wages for fringe benefit contribution purposes. In other words, for foremen and general foremen, do not include the hourly amounts (or "premiums") paid above the journeymen's wage rate in gross wages when calculating EIT's percentage of gross wage contributions.

7. FALSE REPORTING

Please note that submitting false reports may subject the Employer and its principals to prosecution under 18 U.S.C. 1027, which provides for fines and imprisonment for up to five years.

8. EIT RESOLUTIONS

This notice incorporates by reference here, three resolutions adopted by the Trustees. The resolutions are available on the EIT website at fundoffice.org. The first resolution addresses intentional over-reporting. The second resolution describes the Trustees' refund policy with respect to the over-payment of contributions due to mistake. The third resolution addresses intentional over-reporting of individual account plans (Pension Plan No. 5, the Additional Security Benefit Plan for Construction Workers, and the Retirement HRA for Communication Participants). Please review them carefully.

9. COLLECTION POLICY

The Trustees' Delinquency Collection Policy is set forth in Article XVII of the Principal Agreement (Article XVIII of the Communication Agreement, Article XV of the Residential Agreement). The Delinquency Collection Policy describes the payroll audit procedure and the Trustees' remedies for delinquent contributions, and it provides for liquidated damages, interest, and attorneys' fees. Please review these sections of the agreements carefully. If you need a copy of any of the agreements, please contact the Electrical Contractors Association at (708) 531-0022 or I.B.E.W. Local 134 at (312) 454-1340.

The agreements are also available online at:

<https://www.ecachicago.com/aws/ECAC/pt/sp/agreements>.

If you would like a copy of EIT's Delinquency Collection Policy, it is available on the EIT website at fundoffice.org. If you have any other questions, please call Mike Krantz at the Fund Office at (312) 782-5442, ext. 279.