Ohio Administrative Code

Rule 742-7-15 Delinquent employers payment plan.

Effective: November 19, 2020

(A) For outstanding fines and penalties due under sections 742.352 and/or 742.353 of the Revised Code, OP&F shall offer a delinquent employer a payment plan if the employer meets the following criteria:

(1) The employer has no past due employee contributions; and

(2) The employer has satisfied any pre-existing payment plan promissory note; and

(3) The employer meets one of the following criteria:

(a) Employers on fiscal watch or fiscal emergency, as defined by the auditor of state, and who have past due contributions or have accrued reporting and/or pre-employment penalties and interest; or

(b) Employers who have accrued reporting and/or pre-employment penalties and interest which exceed the dollar amount of past due employer contributions, which have been past due for three or more quarters; or

(c) Employers who are inactive and have past due employer contributions, penalties, or interest; or

(d) Employers who have employer contributions that are three or more quarters past due and have no ability to pay (based on the financial formulas outlined below).

(i) Penalties and interest exceed twenty-five per cent of general fund revenues; or

(ii) Penalties and interest exceed eighty per cent of general fund ending fund balance; or

(iii) Penalties and interest exceed fifty per cent of general fund receipt over expenditures.

(B) The offering of this plan of payment by OP&F will precede any actions taken by OP&F to certify the amount due from the employer in accordance with section 742.35 of the Revised Code.

(C) The plan of payment shall be offered to the employers who meet the criteria outlined in paragraph (A) of this rule in accordance with the following provisions:

(1) OP&F will review the eligibility of certain employers who may be able to take advantage of a payment plan. OP&F will notify those employers of the program and request that such employers contact OP&F for additional information.

(2) For any inquiries received from employers, OP&F will notify such employers of their eligibility to participate in a payment plan.

(3) OP&F shall designate a deadline by which the employer must elect to participate in the payment plan and sign the required documentation and if the employer fails to meet the deadlines, the payment plan will not be available to the employers and penalties and interest will continue to accrue.

(4) The employer will have several payment term options in order to permit the employer to choose the best option within the employer's budget considerations, but in no event will the term exceed fifteen years.

(5) The employer must sign a promissory note and agreement that will require signature by the designated authorities/officers of the municipality.

(6) As a condition to participating, the employer must pay in full all past accumulated interest incurred to date to OP&F. Should the employer be unable to remit the interest accrued in full, and all other conditions are met, the board will permit the employer to enter into the payment plan, however the employer's payments will be first applied to the accrued interest portion and then to the past due balance related to contributions and penalties. Interest on those past due balances and penalties will apply until the remaining balance is fully satisfied and based on the repayment term. The total repayment term is limited to the provisions otherwise outlined in paragraph (C)(4) of this rule.

(7) Upon OP&F's receipt of the required documents from the employer, further penalties will be suspended in exchange for the time certain repayment of funds due to OP&F made on a regular, periodic basis (monthly) as outlined on the payment schedule.

(8) For active employers who are participating in full compliance with the payment plan, the payment for regular quarterly bills will continue as normal and the billing statement will remove any reference to the unpaid penalties and interest covered under this arrangement unless the employer defaults.

(9) Interest will be calculated on accumulated penalty balance based on payment term selected. The balance due (penalty and interest) is to be amortized and repaid within the terms of the promissory note at the actuarial assumed rate of interest.

(10) The employer will be given strict payment dates with a fifteen day grace period for late payments. Further, each employer will only be allowed two late payments in any twelve calendar months. Employers will be notified of their late payment and failure to conform to promissory note terms on each occurrence may trigger a default covered by paragraph (D) of this rule.

(D) Failure to comply with the terms of the signed promissory note and agreement as described in paragraph (C) of this rule will put the employer in default status and OP&F shall terminate the agreement, at its option, and re-establish penalties retroactively back to the effective date of the promissory note, with a reduction of penalties for all payments of principal and interest made under the promissory note. The exercise of OP&F's right to declare a default shall be determined by OP&F's executive director.

(1) Upon default, the employer will be notified of the employer's failure to conform to the terms of the promissory note and agreement as well as OP&F's decision to terminate the agreement.

(2) OP&F will initiate the certification process with the county where the employer resides to collect the balance of funds due to OP&F.

(E) All payments due under a payment plan shall be made as follows:

(1) Payments shall be due on the first of each month.

(2) Payments for active employers shall be sent to OP&F separately and not commingled with normal employer and employee contribution, which are paid quarterly.

(3) There is no prepayment penalty; excess amounts will be applied to principal.

(4) At the end of the term, any overpayments due to prepayment will be refunded back to the employer.

(5) Bounced checks will be charged back to employers with fees consistent with normal OP&F practices.