



April 15, 2021

FROM: THE MOTION PICTURE INDUSTRY PENSION AND HEALTH PLANS

RE: UPDATE ON DELINQUENCY PROCEDURES FOR 2022

Dear Employers, Payroll Companies and Other Reporting Entities:

In March, you received a communication regarding our plans to implement a new benefits administration solution that will enhance the contribution submission process. Additionally, you received notice regarding the Plans' delinquency procedures that will be enforced once the new benefit administration solution is operational. This correspondence is intended to provide you with the latest **delinquency procedure and FAQ documents**, and detail the actions you will need to take to ensure timely reporting and payment of contributions and avoid assessment of interest and liquidated damages.

Delinquency procedures are targeted to be in place beginning with the First (1st) Quarter of 2022, on January 01, 2022 (Q1 2022). The attached document provides important information regarding:

- Submission of Contributions-Mode of Payment
- Default in Payment
- Interest
- Liquidated Damages
- Discrepancy in Reported Contributions
- Periods of Rate Changes (i.e., bargaining changes, etc.)
- Waiver of Liquidated Damages
- Three (3) Month Test Period (Q1 2022)

We have also attached for your information **Frequently Asked Questions (FAQs)** addressing the process and changes to the delinquency procedures. The FAQs document was prepared based on discussions with the two (2) contributing payroll companies who submit the largest volume of reportings to the Plans.

REMINDER: Your Action is Required!

In preparation for the implementation of the delinquency procedures, it is imperative that all Employers, Payroll Companies and other reporting entities report and make contributions timely on a weekly basis. Contributions **must** reflect one payroll week per report. A payroll week is from Sunday through Saturday (e.g., 1/10/21-1/16/21). The close of each payroll week is midnight every Saturday. This deadline is established by the MPI Trust Agreements to avoid disruption to

participant benefits, and, if contributions are delinquent, triggers the running of the time period for the assessment of interest and liquidated damages.

Thank you in advance for your patience and participation as we continue to enhance our processes to drive greater efficiency, data accuracy and service to our Participants.

Sincerely,

Motion Picture Industry Pension & Health Plans



Payroll Contribution Reporting/Payment and Delinquency Rules

Targeted for Q1 2022

Please note that the following proposed rules only apply to payroll contributions and not the Post '60s and Supplemental Markets contributions.

Submission of Contributions-Mode of Payment

In preparation for the implementation of delinquency procedures, it is imperative that all Employers, payroll companies and other reporting entities submit the contribution reports and contribution payments timely on a weekly basis. Contributions **must** reflect one payroll week per report. A payroll week is from Sunday through Saturday (e.g., 1/10/21-1/16/21). The close of each payroll week is midnight every Saturday. This deadline is established by the MPI Trust Agreements to avoid disruption to participant benefits.

Default in Payment

Your contribution report and payment are due within fifteen (15) calendar days after the end of the payroll week. If the report and payment are not received by the Plans with this fifteen (15) day period, then you are in default and interest and liquidated damages are due pursuant to the Trust Agreements and will be assessed. The fifteen (15) day tracking begins the Sunday after the close of midnight Saturday.

Interest

In the event of a default in payment of the Employer's contributions, interest will be charged on the amount of such contributions from the date when payment was due to the date when payment was made.

Interest on delinquent contributions shall accrue at the rate of one percent (1%) per month, commencing fifteen (15) calendar days after the Plan gives written notice of the delinquency to the Employer. Interest will continue to accrue until full payment is received.

Liquidated Damages

The amount of damage to the Plans is presumed to be the greater of: 1) twenty percent (20%) of the amount of contributions due; or 2) the amount of interest due under the interest provisions of the Trust Agreements on the date when payment is made. Any such liquidated

damages which may become due shall be in addition to any interest and shall be added to any contributions due.

Discrepancy in Reported Contributions (Billing for Underpaid Contributions, Interest and Liquidated Damages)

Currently scheduled for the First (1st) Quarter, 2022 on January 1, 2022, (Q1 2022) the Plans will assess interest and liquidated damages for underpaid contributions if the underpaid contributions are not received within fifteen (15) calendar days from the close of a payroll week.

Reservation of the Right to Suspend Running of Delinquency Period (i.e., bargaining changes, etc.)

Please note, that the Plans reserve the right to suspend the running of certain time periods in recognition that significant events, such as bargaining changes, may disrupt the timely reporting and payment of payroll contributions. In some instances, the Plans may also exercise their discretion to waive certain deadlines and/or the accrual of interest/liquidated damages.

Waiver of Liquidated Damages Assessed on Delinquent Contributions

The Plans may exercise discretion and waive liquidated damages once a calendar year, per Employer or payroll company for one invoice. All waiver requests must be submitted in writing to the Plans. Each related/affiliated entity with an assigned Employer identification number will have the option to request one waiver per year.

Three (3) month Test Period (Q1 2022)

The Plans will begin the tracking of late reported contributions in Q1 2022. During the months of January through March 2022, the Plans will capture late reportings and will communicate with reporting Employers and payroll companies to ensure an understanding of the delinquency program and assessments. This will include dates of submission, payments, etc.

Thank you in advance for your patience and participation as we continue to enhance our processes to drive greater efficiency, data accuracy and service to our participants.

Delinquency Procedure – Frequently Asked Questions By Payroll Companies Concerning Delinquency Fees for Projects Organized during the Course of Production

- 1. Q** Will we be assessed liquidated damages and interest where projects flip from non-union to union and a new employer submits contributions retroactive back to the date the production became unionized?

A A Collective Bargaining Agreement (CBA) is required for new employers when a project flips from non-union to union. New signatory employers utilizing a payroll company to report contributions are not tracked for delinquency until their CBA is approved by the MPI Board. The approval process can take up to two to three months thus providing ample time to report contributions. For employers with existing CBAs that have been previously approved, the 15-calendar day window will apply. For non-signatory employers utilizing the payroll company's agreements, contributions are expected to be reported within the 15-calendar day window.
- 2. Q** Will delinquency fees be assessed in situations where we do not receive a reporting ID until after MPI processes a CBA for the new employers?

A No. Payroll companies will receive reporting title IDs for new employers within 4-7 business days after a formal written request is received by the MPI from the payroll company. We strongly recommend that you provide a copy of the CBA with any reporting ID request. This will expedite the process and allow ample time for contribution submissions.
- 3. Q** What happens in situations where additional contributions are due and are reported after a new employer's CBA is approved? If a CBA is not finally approved until later, and all contributions are not paid, will delinquency fees be assessed?

A Delinquency fees will be assessed only if the additional contributions or adjustments are received after the approval of the employer's first CBA by the MPI Board *and* after 15-calendar days from the close of the work week.

Frequently Asked Questions

Dated October 01, 2020



4. **Q** What happens if there is a delay in receiving Home Plan documentation, resulting in late payment of contributions?
- A** When the payroll company receives a Home Plan Election Form, contributions should be submitted to MPI with the understanding that if the Election Form is denied, then the contributions will be adjusted and returned to the payroll company without the assessment of interest. Based on certain circumstances, a case-by-case review of the assessments may be conducted by the MPI.
5. **Q** Is it possible to include language in a CBA that states delinquency fees will not be assessed for instances where a reporting Production Title ID was not received by payroll companies in a timely manner?
- A** No. An email or written proof that the reporting Production Title ID information was provided late by MPI in one-off situations may be the basis for the payroll company to request reconsideration by MPI of the assessment of delinquency fees, so long as there is proof that the reporting Production Title ID was requested in a timely manner.
6. **Q** What is being done by the MPI to facilitate earlier notification of IATSE agreements?
- A** Production notices are typically sent from IATSE regarding a new production, and some of the production notices do list the name of the payroll company. Upon receipt of these notices, MPI will set up the reporting numbers in the system and link them to the payroll company. This will make the information available in the event a request for reporting Production Title ID is received from a payroll company. Additionally, payroll companies will be copied on the information packets once the CBA's are fully processed and the packet is prepared.
7. **Q** The time between receiving a Production Title ID and the Legal Committee Approval Date is critical for payroll companies to ensure all adjustments are processed. If Legal Committee Approval Dates are between 6-8 weeks apart, is it possible to set a specific date from the time the Production Title ID is sent to the payroll company to when the liquidated damages and interest would be assessed? For example, could it be 7 weeks from the date when the Production Title ID is sent?
- A** No. We are not able to set a specific date. The Plans may issue a Production Title ID as a courtesy, subject to the approval by the Legal Committee. When a Production Title ID is issued prior to a CBA being approved, there is no guarantee that the CBA will be approved at the next MPI Board meeting following approval by the Legal Committee. Since dates and agendas for Board of Directors meetings can change, there

Frequently Asked Questions

Dated October 01, 2020



may be occasions when payroll companies would have additional time to work on adjustments but there could be rare occasions associated with unique contracts where there is less time. In situations where there is less time, payroll companies may contact MPI to request that the MPI waive the assessed delinquency fee due to factors beyond the control of the payroll company and the newly signed employer.

- 8. Q** Does the following Delinquency Procedure language serve as the deciding factor related to delinquency fees?

“Producer shall execute the Trust Fund Acceptance Agreement attached hereto for the purpose of effectuating the trust fund benefit contributions. Producer shall have thirty (30) days following the execution of this Memorandum Agreement to make such contributions without liquidated damages, interest, or penalties being assessed thereon.”

- A** The MPI Board approval date is taken into consideration with respect to the first CBA of the employer. It takes time to review and prepare CBAs for submission to the Legal Committee which process can take well over two to three months from the date a CBA is received by the Plan Office. Additionally, CBAs are presented to the MPI Board for review and approval every 6-8 weeks. Keep in mind that once an existing CBA is on file with the Plan Office, the regular delinquency process will apply.

- 9. Q** Where a newly signed employer submits a timecard for work performed earlier and that late submission triggers a delinquency, is it possible to pay liquidated damages up front to avoid having to complete another payment process?

- A** Based on internal procedures pertaining to late reported contributions, the MPI may be able to accommodate a payroll company separately reporting delinquency fees and the contributions. This courtesy is dependent upon when MPI receives the payment and contribution report, as interest continues to accrue until full payment is received by MPI.

- 10. Q** As it relates to billing notices, will MPI email those notices to both the payroll company and the employer, if the MPI has email contact information? Additionally, is it possible to see a sample notice and back-up associated with the notice?

- A** Yes, that is the current process. The MPI will provide a copy of the notice template once it is completed.

Frequently Asked Questions

Dated October 01, 2020



- 11. Q** What impact does the delinquency procedure have on the audit process?
- A** Audit processes will not be impacted by these delinquency procedures.
- 12. Q** Can you provide clarification of the term 'payroll week' as it relates to the timeliness for the remittance process and the delinquency procedure?
- A** The term 'payroll week' is interpreted by the MPI (and Directors) to mean 'work week', not the week that payroll was issued.
- 13. Q** Will MPI conduct a pre-review of the delinquency assessments prior to sending a delinquency notice?
- A** Yes, MPI will complete an internal review to ensure accuracy in applying delinquency fees before sending a delinquency notice. In the event of a dispute, contact MPI's Delinquency Coordinator. As a reminder, you have the option to request a waiver of liquidated damages once a year for one invoice.
- 14. Q** If a payroll company and MPI are involved in a dispute that extends outside the 30-day window, will additional fees be assessed?
- A** The Delinquency billing amounts due will not change during the period of an active dispute. However, a lack of response or unnecessary delays on behalf of a payroll company and/or employer will cause additional fees to be assessed. Interest will continue to accrue until full payment is made.
- 15. Q** Will penalties apply to retroactive contributions that are due to MPI as a result of bargaining changes?
- A** Please note that a validation process has been created to stop the running of certain periods of time with important events that could trigger late reportings (i.e., bargaining changes, etc.) MPI issues a notice advising payroll companies and employers of rate changes in advance of a rate a change. A lack of response or unnecessary delays by a payroll company and/or employer in paying the retroactive contributions in a timely manner, will result in the assessment of delinquency fees.
- 16. Q** Will delinquency fees be assessed on adjustments that are pending approval from clients of the payroll company?
- A** Yes, if the contribution was submitted late. MPI encourages payroll companies to remind employers to manage approval timelines to avoid late submissions that will trigger the assessment of delinquency fees.

Frequently Asked Questions

Dated October 01, 2020



- 17. Q** There are instances where payroll companies discover that a contact is no longer with a client, resulting in a late submission. Will this cause delinquency fees to be assessed?
- A** Yes, as employers are ultimately responsible to ensure timely submissions. As a reminder, the one-time waiver of liquidated damages may be requested in these types of situations. You have the option to request a waiver of liquidated damages once a year for one invoice.
- 18. Q** Will MPI continue to send credit advices?
- A** Yes, the current process for sending credit advices will continue. Please note that the billing and payment processing for delinquency billings is separate and distinct from the maintenance and processing of credit invoices.
- 19. Q** If a tape that is uploaded on time remains on MPI's server, will it be considered late?
- A** MPI uses the date when a tape was received by MPI, and successfully loaded without any issues (corruption of tape). MPI's system monitors both hourly and daily for uploaded tapes. Issues identified with a tape will be communicated to the payroll company either the same day or within 24 hours. In the event there is an issue with an uploaded tape that causes a late reporting, the payroll company will need to reach out to MPI to discuss and resolve the issue.