



INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL 4
Health and Welfare, Pension, and Annuity Funds

December 1, 2022

**To All Employers Signatory to the Associated General Contractors of Mass, Inc.
Building Trades Employers Association of Boston and Eastern Mass, Inc.
Foundation & Marine Contractors Association of New England, Inc.
Labor Relations Division of Construction Industries of Mass, Inc., and
Maine and New Hampshire**

Re: IMPORTANT: Contributions Processing Updates as of January 1, 2023

To Whom It May Concern:

We are writing to let you know about two updates that we are implementing beginning in January 2023 that will create greater efficiencies in our processing of contributions and help to ensure regulatory and contractual compliance for our contributing employers.

1. 401(k) Withholdings

It is vital that our contributing employers ensure that amounts being withheld from employee wages and remitted to the Annuity Plan as pre-tax 401(k) contributions are supported in writing on the employee's Income Deferral Agreement. Employers violate IRS regulations if they fail to comply strictly to the letter of the employee's Income Deferral Agreement, even if the employee him or herself has told your payroll department to begin, stop, or change their withholding. The IRS mandates that an employer that fails to correctly implement elective deferrals must fix its error by making a qualified non-elective contributions (QNEC) to the Annuity Plan on behalf of the affected employee, equal to 50% of the missed deferral (adjusted for earnings). This QNEC is to be paid directly by the employer, without any withholding from the affected employee's wages.

In order to correct this issue, going forward, Income Deferral Agreements will only be provided to your employees via the Funds Office, and must be returned to the Funds Office for proper tracking. The Funds Office will notify you, or you may inquire of us, if an employee has signed his or her Income Deferral Agreement, and in what amount per hour. If you make an improper remittance going forward, based on our records, you will receive a letter notifying you of the error. The IRS provides a three-month safe harbor period for an employer to correct its error and to notify its affected employee(s) of the correction without having to pay the QNEC; our hope is, that by working together, we will be able to fix these outstanding errors at the beginning of 2023 without any penalties being imposed.

2. Remittance Reports

You will also notice beginning in January that the prebills you receive from the Funds Office will look slightly different. The design will have changed somewhat, but the biggest

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change is that we are now mandating that each remittance report contain the signature of whomever is filling it out, attesting that the information being provided is accurate and complete. Your report will not be accepted if it does not contain the proper attestation.

There will also be a check box for attestation on the online Employer Self-Service (ESS) module.

And speaking of ESS – we continue to encourage all of our contributing employers to take advantage of the greater efficiency and security that is provided by this online system. Once you are signed up and enter your initial report – and the Funds Office is here to help you get started – you will be amazed at how much easier it is to report on a monthly basis. The system will perform calculations for you, based on current rates, so you do not need to worry about rate changes or mathematical errors that result in unintended underpayments. It is simply safer to report online and to make payments via ACH than it is to put that sensitive information in the mail. The speed of processing online also helps you to avoid the imposition of interest, or additional delinquency issues, that can arise from reports and payments getting caught in the mail. (And for those of you that send your reports via Fed Ex, UPS, or overnight mail – ESS is free. Think of the savings.) Please contact the Funds Office today to get signed up or visit <https://www.local4funds.org/employer-self-service/>.

We appreciate your cooperation with these updates, and we value the strong working relationships that we have built with our contributing employers. Please feel free to contact us with any questions.

Sincerely,



Gregory A. Geiman, Esq.
Administrator