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**DEPARTMENT OF WORKFORCE DEVELOPMENT****Nonrule Policy Document # 2021-06:  
Waivers of Increased Unemployment Insurance Contribution Rates**

**DATE ADOPTED:** December 20, 2021. Applicable to all waiver requests for increased unemployment contribution rates imposed under [IC 22-4-11-2\(c\)](#) beginning with calendar year 2022 rates.

**ADOPTED BY:** Department of Workforce Development – Frederick D. Payne, Commissioner

**SUPERSEDES:** Unemployment Insurance Board Resolution Oct. 21, 2009

**NOTICE:** Under [IC 4-22-7-7](#), this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the department's official position concerning a specific issue.

**DISCLAIMER:** This nonrule policy document is intended to supplement applicable rules and laws. It does not replace applicable rules and laws and, if it conflicts with these rules or laws, the rules or laws shall control. Decisions made under this nonrule policy document are not subject to review unless such review is separately granted by statute.

### Overview

To provide guidance regarding waivers of increased unemployment contribution rates imposed for untimely, delinquent, and/or outstanding unemployment insurance reports or liabilities. This guidance supersedes the Unemployment Insurance Board Resolution, dated Oct. 21, 2009.

### Background

If an employer fails to timely report or pay its quarterly unemployment insurance liabilities, the department is required under [IC 22-4-11-2](#) to increase the employer's unemployment contribution rate by 2%. The department may waive the imposition of this increased rate if it finds the employer's failure was for excusable cause.

### Policy

Employers are required to pay unemployment insurance contributions in the form and manner required by the department. [IC 22-4-29-1](#). For each year, the department determines the contribution rate applicable to each employer. [IC 22-4-11-2\(a\)](#). The rate is increased by 2% "unless all required contributions and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessor for periods before and including the computation date have been paid" by the date specified by the department. *Id.* at (c). "The department or the department's designee may waive the imposition of rates under this subsection if the department finds the employer's failure to meet the deadlines was for excusable cause." *Id.*

The department may waive this increased rate only if:

- (1) the employer or the employer's agent requests the waiver via e-mail to the agency at [DWDESSCommunications@dwd.in.gov](mailto:DWDESSCommunications@dwd.in.gov) no later than December 31 of the year for which the waiver is being requested;
- (2) the employer has filed an accurate report in the form and manner prescribed by the department for each quarter the employer was required to file;
- (3) the employer and any predecessors of the employer have no outstanding liability for unemployment insurance contributions, interest, penalties, costs, or special charges; and
- (4) the department determines the failure to timely pay all outstanding contributions, penalties, and interest was due to excusable neglect.

The department may find the failure to pay was caused by excusable neglect if the failure was caused by:

- acts of nature; God; terrorism; or war;
- death or incapacitation of an owner or preparer;
- theft, embezzlement, or deceit by a responsible party, fiduciary, or trusted employee;
- ESS unavailable/widespread internet outages (not including employer password issues);
- administrative errors by employees or agents of the employer;
- filing in a manner other than that required by the department while an initial request for an alternative method is pending;

- error by the department;
- reliance on a third-party provider.

This list is not intended to be all inclusive as each request is evaluated on the merits and documentation provided by the employer. Lack of knowledge or understanding of the filing or payment requirements do not meet the standard for waiver approval. The department may issue a waiver conditioned upon the employer and/or employer's agent's adherence to a corrective action plan. Failure to adhere to the corrective action plan may result in rescission of the waiver or denial of future waiver requests.

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