

[HDMF CIRCULAR NO. 263, May 26, 2009]

PENALTY CONDONATION FOR DELINQUENT EMPLOYERS

To encourage delinquent employers to register with the Fund and/or collect and remit the mandated membership contribution and employer counterpart, the following guidelines are hereby issued:

1. Coverage

1.1 These guidelines shall cover the following:

1.1.1 All unregistered employers, provided they register with the Fund on or before the last working day prior to December 31, 2009;

1.1.2 Employers whose applications for waiver from Fund coverage have been denied but who have failed or continued to refuse registration with the Fund; and

1.1.3 Employers duly registered with the Fund but did not collect contributions from their respective employees and did not remit employer counterpart.

1.2 Limitation of Coverage

1.2.1 These guidelines shall not include employers who collected membership contributions and/or STL amortization payments from their respective employees but failed to remit the same to the Fund.

They shall be required to pay all unremitted membership contributions, including the employer counterpart, as well as corresponding penalty charges, from the time the employees should have been covered by the Fund.

Employers shall also pay all STL amortization payments deducted from their employees but were not remitted. The penalties incurred by the employees due to non-remittance shall be charged to the employer and shall be credited to the member's TAV thereafter.

1.2.2 If said employers cannot immediately pay the entire amount due, payments may be made at a plan of payment acceptable to the Fund.

1.2.3 In the event that said employers have coverable employees from whom they did not collect membership contributions, they may apply for penalty condonation under

these guidelines for those particular employees who are still under their employ.

1.2.4 In cases where the employer failed or refused to comply within thirty (30) days from demand, they shall be criminally prosecuted in accordance with the penal provisions of PD 1752, as amended.

2. Applications for Penalty Condonation

2.1 Eligible employers shall be required to submit a letter signifying their request for penalty condonation. The following shall be considered as grounds for granting penalty condonation to delinquent employers:

2.1.1 Financial difficulty to meet his statutory obligation under PD 1752, as amended. Financial difficulty means that the remittance of the required contributions shall affect the business operations of the company;

2.1.2 Failure of his concerned official to register the covered employees and/or remit the required contributions pursuant to PD 1752, as amended and such failure has not been brought to the knowledge of the higher management;

2.1.3 Coverage under PD 1752, as amended has been unsuccessfully contested in court;

2.1.4 Other grounds/reasons acceptable to the Board of Trustees.

2.2 The deadline of filing application for penalty condonation shall be on the last working day before December 31, 2009.

3. Penalty Condonation

3.1 Eligible employers shall be required to remit all unremitted employer contributions from the time their current employees should have been covered by the Fund up to the point of approval of application. In addition, they shall be required to collect and remit to the Fund employee and employer contributions due for the current remittance period.

3.1.1 All penalty charges incurred by the employer from the first month of delinquency up to point of approval of application shall be condoned, provided said employer remit his/her total obligations due within thirty (30) days from approval of application.

3.1.2 In the event that the employer is financially incapable of remitting the required contributions in full, the employer may submit a plan of payment subject to the approval of the Fund within seven (7) calendar days from approval of application, provided that:

3.1.2.1 The period of settlement shall not exceed twenty four (24) months. The penalties to be