

Date of Proposal: October 1, 2012  
Proposed by: DWD  
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**ANALYSIS OF PROPOSED UI LAW CHANGE**

**Interest Adjustment Flexibility**

**1. Description of Proposed Change**

The proposed change would allow the department to write-off interest when deemed appropriate by the bureau of tax and accounting when an employer later files the required report or makes the required payment and satisfies the department that the report or payment was tardy due to circumstances beyond the employer's control.

**2. Proposed Statutory Language**

**Amend 108.22 (1) (a):**

Except for as provided in 108.22 (1) (d), if any employer, other than an employer which has ceased business and has not paid or incurred a liability to pay wages in any quarter following the cessation of business, is delinquent in making by the assigned due date any payment to the department required of it under this chapter, the employer shall pay interest on the delinquent payment at that monthly rate that annualized is equal to 9 percent or to 2 percent more than the prime rate as published in the Wall Street Journal as of September 30 of the preceding year, whichever is greater, for each month or fraction thereof that the employer is delinquent from the date such payment became due.

**Amend 108.22 (1) (d):**

(d) In limited circumstances as prescribed by rule of the Department, the Department at its sole discretion may waive or decrease the interest charged pursuant to s. 108.22 (1) (a). The tardy payment fee or filing fee may be waived by the department if the employer later files the required report or makes the required payment and satisfies the department that the report or payment was tardy due to circumstances beyond the employer's control.

**3. Proposer's Reason for the Change**

In some cases, employers are not aware they were supposed to be paying unemployment insurance taxes, but are found subject by the department and are assessed interest from the due date of the late reports, which can be up to four years. When employers agree with the findings and voluntarily report going forward, the department currently does not have the statutory authority to write-off any interest in these cases, but it can be a financial burden on small employers who were not even aware they were out of compliance.

**4. Brief History and Background of Current Provision**

No current provision.

**5. Effects of Proposed Change**

- a. **Policy.** Would allow discretion within the department to write-off interest in cases where the employer is now in compliance but the interest charges are creating a hardship for the employer.
- b. **Administrative Impact.** There are no system changes required for this change.
- c. **Equitable.** Policies and procedures would need to be drafted for an equitable implementation of this statutory change and the ability to write-off interest would be limited to control the use of this provision and ensure consistency.
- d. **Fiscal.** Since this would have controls and guidelines for its use, it would have a small impact by reducing interest collected, but may also promote compliance and payment of delinquent taxes. We expect there to be no measurable effect to the Trust Fund. This proposal will reduce the interest penalties to firms who owe back taxes at the department's discretion. Such penalties flow to the administrative balance and not the Trust Fund and so the reduction of interest penalties will not affect the Trust Fund balance. The only potential impact to the Trust Fund is to encourage firms reluctant to begin their required participation in the Unemployment Insurance program to do so. But since such firms are already required to participate this affects the timing rather than the overall level of funds flowing into the Trust Fund.

**6. State and Federal Issues**

- a. **Chapter 108.** Section 108.22(1) (d), Wis. Stat. could be amended to add the words "interest assessed"...may be waived.
- b. **Rules.** No administrative rules will need to be promulgated or changed as a result of this proposal.
- c. **Conformity.** The assessment of interest provided in s. 108.22 (1) (a) is not mandated by federal law and was just recently lowered from 12 percent to a currently charged rate of 9 percent. Therefore, there should not be any conformity issues with providing another means to help employers who were not aware that they owed unemployment insurance in the first instance.

**7. Proposed Effective/Applicability Date.**

The law change should be operative as of the effective date of the legislation.