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CLEARINGHOUSE RULE 99-156

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The rule analysis states that the Deferred Compensation Program is one of several nonretirement programs established under ch. 40, Stats., for which more precise due dates are needed in this rule. The Deferred Compensation Program is administered under subch. VII of ch. 40, but there is not reference to subch. VII in this rule, as there is to the subchapters governing the other programs listed in the analysis. Was a provision setting forth due dates relating to the Deferred Compensation Program inadvertently left out of this rule?

b. The rule analysis states that the current rule does not specifically address "annual reporting of wage detail," which, the analysis says, is critical to reliable funding analysis and to prompt and accurate payment of benefits. However, the proposed rule does not contain any references to reporting "wage detail." Is "wage detail" another term for the "detailed annual earnings reports" referenced in s. ETF 10.63 (1) (c)? It is suggested that consistent terminology be used to avoid confusion. Also, the analysis should more specifically discuss where the proposed rule addresses the annual reporting of wage detail.

c. In s. ETF 10.63 (1) (b) and (c), the term "working day" is modified by the phrase "excluding Saturdays, Sundays, and holidays when the state offices are closed." The modifying phrase is redundant because the term "working day," by common usage, means the days of the work week, and not Saturdays, Sundays and legal holidays. Note that the modifier is *not* used in s. ETF 10.63 (1) (f). The department might consider creating a definition of "working day" in s. ETF 10.01.

Response to Legislative Council Staff Recommendations

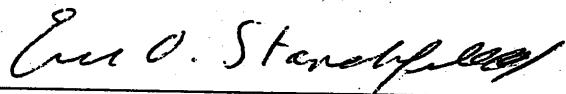
Each of the Legislative Council Staff recommendations concerning clarity, grammar, punctuation and use of plain language was adopted. The text of the rule was modified accordingly. These modifications affected the analysis and s. ETF 10.63 (1) (f).

Board Authorization for Promulgation

This final draft report on Clearinghouse Rule #99-156 has been duly approved for submission to the Legislature and for promulgation by the Employee Trust Funds Board at its meeting on March 10, 2000, by both the Teacher Retirement and Wisconsin Retirement Boards at their respective meetings on March 9, 2000, and by the Group Insurance Board at its meeting on April 18, 2000.

Respectfully submitted,

DEPARTMENT OF EMPLOYE TRUST FUNDS



Eric O. Stanchfield, Secretary

Wisconsin Department of Employee Trust Funds

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-156

AN ORDER to repeal and recreate ETF 10.63 (1); and to amend ETF 10.63 (2), relating to due dates for ETF programs.

Submitted by **DEPARTMENT OF EMPLOYEE TRUST FUNDS**

11-15-99 RECEIVED BY LEGISLATIVE COUNCIL.

12-14-99 REPORT SENT TO AGENCY.

RNS:PS:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

April 27, 2000

TO: Members of the Senate Labor Committee

Senator Russell Decker
Senator Roger Breske

Senator David Zien
Senator Margaret Farrow

FROM: Senator Jim Baumgart, Chair

Re: Clearinghouse Rules referred to Committee

The following rule was referred to the Committee on April 25, 2000.

CLEARINGHOUSE RULE 99-156 - Relating to due dates for ETF programs.

Submitted by the Department of Employee Trust Funds

Enclosed is a copy of the rule. If you have any concerns or questions about the rules or want a public hearing on the rules, please advise immediately.

cc: Dan Fernbach, Legislative Council Attorney



STATE OF WISCONSIN

Department of Employee Trust Funds

Eric O. Stanchfield
Secretary
801 West Badger Road
P.O. Box 793
Madison, WI 53707-793

April 21, 2000

THE HONORABLE FRED A RISSER
PRESIDENT OF THE SENATE
C/O DONNA DOYLE
SENATE JOURNAL AND RECORDS
ONE EAST MAIN STREET, SUITE 402
MADISON WI 53702

Re: Clearinghouse Rule #CR 99-156 relating to due dates for ETF programs.

Dear Senator Risser:

In accordance with Wis. Stats. § 227.19 (2), I am enclosing a copy of this proposed rule in final draft form. The report required under Wis. Stats. § 227.19 (3) is also enclosed.

Please contact Pam Henning, Director of Legislation and Planning, at 267-2929 if you have any questions.

Sincerely,

Eric O. Stanchfield
Secretary

Enclosure

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYE TRUST FUNDS, EMPLOYE TRUST FUNDS BOARD
TEACHER RETIREMENT BOARD, WISCONSIN RETIREMENT BOARD, AND
GROUP INSURANCE BOARD**

FINAL DRAFT REPORT ON CLEARINGHOUSE RULE #99-156

A RULE repealing and recreating s. ETF 10.63 (1); amending s. ETF 10.63 (2), Wisconsin Administrative Code, relating to due dates for ETF programs.

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Agency Person to be Contacted for Questions

For information about this rule, please contact: Mary Hensen, Program and Planning Analyst, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707-7931. Telephone: (608) 266-8411. FAX: (608) 267-4549.

Statement Explaining Need for Rule

The Department of Employee Trust Funds is required by Wis. Stats. § 227.10 (1) to promulgate as a rule each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute. This rule provides the due dates for employers to submit monthly and annual reports to the Department for programs that it administers. The rule expands the current reporting requirement to now include both state and local public employers for reports as necessary for the Wisconsin Retirement System and non-retirement programs.

Analysis Prepared by the Wisconsin Department of Employee Trust Funds

Authority for Rule: Wis. Stats. § 40.03 (1) (m), (2) (i) and (2) (ig)

Statutes Interpreted: Wis. Stats. § 40.06 (1) (a)

Currently, Wis. Admin. Code s. ETF 10.63 (1) (e) prescribes due dates for state agencies to submit reports and remittances pertaining to the Wisconsin Retirement System for non-teaching employees. Wis. Admin. Code s. ETF 10.63 (1) (f) is obsolete since it pertains to Social Security reporting, which is no longer administered by the Department. Wis. Admin. Code s. ETF 10.63 (1) (g) provides that all other reports and remittances are due on the last working day of the month following the end of the reporting period.

More precise due dates are needed to provide the Department with a more certain basis to administer non-retirement programs established under Chapter 40 of the Wisconsin Statutes. These programs include the state and local public employers' group health, life, and income continuation insurance programs, and the Employee Reimbursement Account Program. Some of these programs have contractual remittance requirements which differ from the general due date provided in Wis. Admin. Code s. ETF 10.63 (1)(g).

In addition, the current rule only generally addresses the due date for the detailed annual earnings reports in ETF 10.63 (1)(g). This rule more clearly defines the due date for the detailed annual earnings reports in ETF 10.63 (1)(c). This information is critical to reliable funding analysis and to prompt and accurate payment of benefits.

Fiscal Estimate

The Department estimates that there will be no direct fiscal impact from this proposed rule upon the state and anticipates no effect upon the fiscal liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education school district or sewerage district.

Final Regulatory Flexibility Analysis

The Department anticipates that the provisions of this proposed rule will have no direct adverse effect on small businesses.

(BEGINNING OF RULE TEXT)

SECTION 1. Section ETF 10.63 (1) is repealed and recreated to read:

ETF 10.63 (1) (a) Contribution reports and remittances from state departments, excluding university and other state department reports which pertain to teachers only, required in the administration of subch. II of Ch. 40, Stats., are due on the 20th day of the month following the reporting month.

(b) Contribution reports and remittances other than those specified in par. (a) required in the administration of subch. II of Ch. 40, Stats., are due on the last working day, excluding Saturdays, Sundays, and holidays when the state offices are closed, of the month following the end of the reporting month.

(c) Detailed annual earnings reports required in the administration of subch. II of Ch. 40, Stats., are due on the last working day, excluding Saturdays, Sundays, and holidays when the state offices are closed, of the calendar month following the end of the calendar year.

(d) Premium and coverage reports and remittances required in the administration of subchs. IV and VI of Ch. 40, Stats., are due on the 20th day of the calendar month preceding the

coverage month.

(e) Premium and coverage reports and remittances required in the administration of subch. V of Ch. 40, Stats., are due as follows:

1. For state agencies, on the 20th day of the calendar month following the reporting period.
2. For local government employers, on the 20th day of the calendar month preceding the month of coverage.

(f) Reduction reports and remittances required in the administration of subch. VIII of Ch. 40, Stats., are due within 2 working days after the date on which the regular employe payroll payments are issued, excluding Saturdays, Sundays, and holidays when the state offices are closed.

SECTION 2. Section ETF 10.63 (2) is amended to read:

ETF 10.63 (2) Whenever ~~the 5th or the~~ 20th day of the calendar month referred to in sub. (1) falls on a Saturday, Sunday or holiday on which state offices are closed, a report or a remittance received on the ~~next succeeding~~ first working day after the 20th day of the calendar month shall be deemed to have been received on a timely basis.

(END OF RULE TEXT)

The following chart shows the breakdown by type of program, employer, report and provides the due date for each:

DUE DATES FOR ETF PROGRAMS

Program	Employer Type	Report	Due Date
Wisconsin Retirement System (WRS)	All	Annual	January 31 of the year following the end of the reporting period.
	State Agencies	Monthly Remittance excluding Teachers	20th of the calendar month following the reporting period.
	State Agencies Local Governments	Monthly Remittance pertaining to Teachers Monthly Remittance	Last working day of the calendar month following the end of the reporting period excluding Saturdays, Sundays and holidays when the state offices are closed.
Group Health Insurance Program	All	Monthly Remittance	20th day of the month preceding the month of coverage.
Group Life Insurance Program	All	Monthly Remittance	20th day of the month preceding the month of coverage.
Income Continuation Insurance (ICI) Program	State	Monthly Remittance	20th of each month for the previous month's coverage.
	Local Governments	Monthly Remittance	20th day of the month preceding the month of coverage.
Employee Reimbursement Accounts Program (ERA)	State	Remittance	Within 2 days of the check date.

Effective Date

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in Wis. Stat. § 227.22 (2).

Explanation of Modifications as Result of Testimony at Public Hearing

Pursuant to the procedure set forth in s. 227.16 (2) (e), the Department of Employee Trust Funds did not hold a public hearing, and therefore, did not have any modifications as a result.

List of Persons Appearing or Registering For or Against the Rules

Pursuant to the procedures set forth in s. 227.16 (2) (e), the Department of Employee Trust Funds did not hold a public hearing, and therefore, no person appeared for or against the rule.