**Section 950.200 Penalties**

a) *An employer who fails without reasonable cause to enroll an employee in the Program within the time prescribed under Section 60* of the Act *shall be subject to a penalty equal to*:

1. $250 per employee for the initial calendar year during which the employer fails to comply with the requirements of Section 100 of this Part;(Section 85(a)(1) of the Act) or

2) $500 per employee for each subsequent calendar year during which the employer fails to comply with the requirements of Section 100 of this Part. Years during which the employer is noncompliant need not be consecutive for the $500 penalty to apply. The $500 penalty shall apply if the employer previously was assessed a $250 penalty and the employer did not come into compliance or has fallen out of compliance.(Section 85(a)(2) of the Act)

b) The Department shall determine the total number of employees using the annual average from data reported quarterly by the employer pursuant to Article 7 of the Illinois Income Tax Act.

c) Penalties imposed under the Act are assessed and collected by the Department. (Section 85 of the Act)

d) Penalties provided under the Act are imposed only if the employer fails to enroll an employee without reasonable cause. (Section 85(a) of the Act) The determination of whether an employer had reasonable cause shall be made on a case by case basis taking into account all pertinent facts and circumstances. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the employer made a good faith effort comply with the Act.

1) An employer will be considered to have made a good faith effort to comply with the Act if the employer exercised ordinary business care and prudence in doing so.

2) An employer's history of compliance is also a factor to be considered in determining whether the employer acted in good faith.

3) If an employee is a nonresident whose base of operation is outside this State, the employer has reasonable cause for not enrolling the employee prior to the 31st working day in which the employee performs services for the employee in this State (within the meaning of IITA Section 304(a)(2)(B)(iii)) during the first calendar year for which the employee meets the requirements for enrolment under the Act.