

When a new business is formed and it acquires assets, employees, business, organization, or trade from another employer, the new business entity is classified as a successor employer. If a successor employer has any common ownership, management, or control with the predecessor employer, regardless of whether it was in existence prior to the transfer, the contribution rate of the successor employer is based on the successor employer's experience in combination with the predecessor employer's experience, whether or not the predecessor employer remains in business. If there was only a partial transfer of business, and the predecessor employer remains in business, the successor rate would be based on its rate in combination with the proportionate share of the predecessor's rate. If two or more successor employers are involved in a transfer, the rate of contribution of each successor employer is based on its experience in combinations with the proportionate share of the predecessor employer rate, whether or not the predecessor employer remains in business.

Background: Chapter 610 of 2005, as required by the federal SUTA Dumping Prevention Act of 2004, prohibited and established penalties for the practice known as state unemployment tax avoidance (SUTA) dumping. SUTA dumping is a tax evasion scheme involving the manipulation of an employer's unemployment insurance tax rate to achieve a lower rate. Employers avoid taxes by offloading benefit charges to accounts that may be closed and no longer reporting or by constantly moving the majority of their payroll to accounts that have lower tax rates.

SUTA dumping occurs when a business transfers payroll out of an existing company to a new or different company solely to reduce taxes. There are three methods used to accomplish this:

- vertical – create a new employer that is assigned a new employer tax rate which can be significantly lower, then transfer payroll to the new employer;
- horizontal – transfer payroll to a subsidiary with a lower tax rate; and
- acquired rate – find another employer with a low tax rate and arrange to transfer payroll to that employer.

Additional Information

Prior Introductions: None.

Cross File: None.

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