

VOLUNTARY SUCCESSORSHIP: CLEARLY SEGREGABLE AND IDENTIFIABLE PORTION
OHIO REVISED CODE, SECTION 4141.24(F)
OHIO ADMINISTRATIVE CODE, RULE 4141-17-02

4141.24

(F) If an employer transfers all of its trade or business to another employer or person, the acquiring employer or person shall be the successor in interest to the transferring employer and shall assume the resources and liabilities of such transferring employer's account, and continue the payment of all contributions, or payments in lieu of contributions due under this chapter.

If an employer or person acquires substantially all or a clearly segregable and identifiable portion of an employer's trade or business, then upon the director's approval of a properly completed application for successorship, the employer or person acquiring the trade or business, or portion thereof, shall be the successor in interest. The director by rule may prescribe procedures for effecting transfers of experience as provided for in this section.

4141-17-02 Voluntary successorship: clearly segregable and identifiable portion.

(A) The transfer of a portion of a trade or business will result in the transferee becoming a successor in interest if all of the following requirements are satisfied:

(1) A clearly segregable and identifiable portion of the transferor's trade or business located in the state of Ohio is transferred;

(2) Immediately after the transfer, the transferee employs substantially the same individuals covered under the Ohio unemployment compensation law who immediately prior to the transfer were employed in the clearly segregable and identifiable portion of such trade or business; and

(3) An application signed by the transferor and the transferee requesting that the application containing all of the information required in paragraph (C) of this rule shall be filed with the director within ninety days from the date the director sends notice to the transferee that the request may qualify for a transfer of experience. Failure to submit the application within the prescribed time limits shall result in the automatic denial of the application.

Under this type of transfer, the successor in interest shall assume from the transferor's account only the employment experience determined, pursuant to paragraph (D) of this rule, to be attributable to the segregable and identifiable portion transferred. The director shall revise the contribution rates of the transferor and transferee to reflect the results of the successorship.

(B) The application referred to in paragraph (A) of this rule must be signed by duly authorized representatives of the transferor and the transferee.

(C) In order for the department to determine the portion of the payroll and unemployment experience to be transferred to the transferee and also whether the transferee is eligible for an experience rate, the application containing the following information must be received by the director:

(1) Address and location, trade name and description of the portion of the business sold;

(2) Date of the transfer;

(3) Date of the first employment subject to the Ohio unemployment compensation law for the transferring portion of the business before it was transferred;

(4) Gross and taxable payroll totals for individuals covered under the Ohio unemployment compensation law attributable to the transferred portion for the four completed calendar quarters immediately preceding the quarter in which the transfer occurred; and

(5) The names and social security account numbers of the employees transferred and retained by the transferee furnished in a manner approved by the director.

(D) If the transfer of experience is approved, the taxable wages, contributions, voluntary contributions, amounts transferred to the mutualized account under section 4141.24 of the Revised Code, charges for benefits paid, that are attributable to the transferor for all periods prior to the date of transfer shall be transferred based on the ratio that the taxable wages attributable to the transferred portion for the four completed calendar quarters immediately preceding the quarter in which the transfer occurred bears to the total taxable wages of the predecessor for the same period. Charges for unemployment compensation benefits paid after the effective date of the transfer, to individuals who are identified in the application as having been transferred to the transferee, shall be charged to the account of the transferee.

4141-17-02-2

(E) The transfer of experience will not be approved unless all of the information required in paragraph (C) of this rule has been submitted in accordance with the requirements of this rule and all contributions, interest and forfeitures due to the department by both the transferor and transferee are paid in full no later than a date set by the director.

(F) For the purposes of this rule, a clearly segregable and identifiable portion of the transferor's business means a portion of the business, such as a division, that would have been able to operate independently from the trade or business as a whole prior to the date of the transfer.

(G) The director shall not approve a transfer of experience or contribution rates of the transferee or transferor for any contribution period with respect to which the director has determined contribution rates for the transferee or transferor pursuant to division (G) of section 4141.24 or section 4141.48 of the Revised Code.