



Ohio Administrative Code Rule 4141-17-03 Voluntary transfer.

Effective: July 21, 2024

(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.
- (3) An application signed by the transferor and the transferee requesting that the transferee be made a successor in interest is submitted to the director. The application containing all of the information in paragraph (A)(5) of this rule will 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 will result in the automatic denial of the application.

Under this type of transfer, the successor in interest will assume from the transferor's account only the employment experience determined, pursuant to paragraph (A)(6) of this rule, to be attributable to the segregable and identifiable portion transferred. The director will revise the contribution rates of the transferor and transferee to reflect the results of the successorship.

- (4) The application referred to in paragraph (A)(3) of this rule will be signed by duly authorized representatives of the transferor and the transferee.
- (5) 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 will be received by the director:



- (a) Address and location, trade name and description of the portion of the business sold;
 - (b) Date of the transfer;
 - (c) Date of the first employment subject to the Ohio unemployment compensation law for the transferring portion of the business before it was transferred;
 - (d) 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
 - (e) The names and social security numbers of the employees transferred and retained by the transferee furnished in a manner approved by the director.
- (6) 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, and charges for benefits paid, that are attributable to the transferor for all periods prior to the date of transfer, will 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, will be charged to the account of the transferee.
- (7) The transfer of experience will not be approved unless all of the information in paragraph (A)(5) 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.
- (8) 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.



(9) The director will 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.

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

(1) Seventy-five per cent or more of the assets of the transferor's trade or business located in the state of Ohio are transferred to the transferee.

(2) Immediately after the acquisition, the transferee employs seventy-five per cent or more of the same individuals covered under the Ohio unemployment compensation law who immediately prior to the transfer were employed in such business.

(3) An application signed by the transferor and the transferee requesting that the transferee be made a successor in interest is submitted to the director. The application, containing all the information in paragraph (B)(4) of this rule, will 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 will result in the automatic denial of the application. Under this type of transfer, the successor in interest will assume all of the resources and liabilities of the transferor's account, including the transferor's entire unemployment experience. The director will revise the contribution rates of the transferor and the transferee to reflect the results of the successorship.

(4) In order for the director to determine whether substantially all of the assets of the transferor's business are transferred to the transferee and whether, immediately after the acquisition, the transferee employed substantially the same individuals covered under the Ohio unemployment compensation law who immediately prior to the transfer were employed in such trade or business, the application referred to in paragraph (B)(3) of this rule will provide:

(a) The number of individuals covered under the Ohio unemployment compensation law employed



by the transferor at the time of the transfer and the number of individuals covered under the Ohio unemployment compensation law employed by the transferee immediately after the acquisition; and

(b) A statement signed by the transferor and transferee that provides:

(i) The monetary value of the total assets of the transferor located in the state of Ohio at the time of the acquisition, including the valuation of real property and personal property consistent with the employer's most recent valuation for federal tax purposes, and intangible property including the value of patents, trademarks and goodwill; and

(ii) The monetary value of assets that were transferred at the time of the acquisition as valued in paragraph (B)(4)(b)(i) of this rule.

(5) The application referred to in paragraph (B)(3) of this rule will be signed by a duly authorized representative of both the transferor and the transferee.

(6) The transfer of experience will not be approved unless all of the contributions, interest and forfeitures due to the department by both the transferor and the transferee are paid in full no later than a date set by the director.

(7) The director will not approve a transfer of experience or contribution rates of the transferee or transferor under this rule 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.