

*****DRAFT - NOT FOR FILING*****

4123-17-02 Basic or manual rate.

- (A) The "basic or manual rate" is hereby expressed as the unit of premium per one hundred dollars of payroll for accident and disease coverage.
- (B) Succeeding employers -- experience.
- (1) Where one legal entity, not having coverage in the most recent experience period, wholly succeeds another legal entity in the operation of a business, his or its rate shall be based on the predecessor's experience within the most recent experience period.
 - (2) Where a legal entity having an established coverage or having had experience in the most recent experience period wholly succeeds one or more legal entities having established coverage or having had experience in the most recent experience period and at least one of the entities involved has a merit rating experience, the experience of all the involved entities shall be combined to establish the rate of the successor.
 - (3) Where a legal entity succeeds in the operation of a portion of a business of one or more legal entities having an established coverage or having had experience in the most recent experience period, the successor's rate shall be based on the predecessor's experience within the most recent experience period, pertaining to the portion of the business acquired by the successor.

Pursuant to this rule, the bureau shall provide to the parties to the transfer of experience the necessary forms and instructions to complete the transfer of the appropriate payrolls and claims. Each party to the transfer of experience shall sign the completed forms. The bureau shall review the completed forms and if any questions arise, the bureau may conduct a premium audit on each party's risk account.

- (4) When any combination or transfer of experience is indicated under any of the provisions of this rule, the effective date of such combination or transfer shall be the beginning date of the next following payroll reporting period. In cases where an entity not having coverage wholly succeeds another entity or in cases where the date of succession is determined to be January first or July first, the experience of the predecessor shall be transferred to the successor-employer effective as of the actual date of succession.
- (5) For an out of state employer purchasing an existing Ohio operation, the bureau may use the out of state experience of the employer as a factor in determining the employer's experience.
- (6) ~~Whenever one employer succeeds another employer in the operation of a business under~~In addition to paragraphs (B)(1) to (B)(5) of this rule, and regardless of whether the predecessor's transfer to the successor was voluntary or through an intermediary bank or receivership, the bureau shall transfer the predecessor's experience under the workers' compensation law to the successor if ~~one~~ any of the following criteria ~~is~~ are met:
 - (a) The successor expressly or impliedly agrees to assume such obligations;
 - (b) The succession transaction amounts to a de facto consolidation or merger;
 - (c) The successor is merely a continuation of the predecessor; or
 - (d) The succession transaction is entered into for the purpose of escaping obligations under the workers' compensation law.

DRAFT - NOT FOR FILING

~~If one or more of the criteria set forth in this paragraph is met, the bureau shall transfer the predecessor's experience under the workers' compensation law, regardless of whether the predecessor's transfer to the successor was voluntary or through an intermediary bank or receivership.~~

(C) Succeeding employers -- risk coverage transfer.

- (1) Whenever one employer succeeds another employer in the operation of a business in whole or in part, the successor shall notify the bureau of the succession. Where one employer wholly succeeds another in the operation of a business, the bureau shall transfer the predecessor's rights and obligations under the workers' compensation law: to the successor.

(2) In addition to paragraph (C)(1) of this rule and regardless of whether the predecessor's transfer to the successor was voluntary or through an intermediary bank or receivership, the bureau shall transfer the predecessor's rights and obligations under the workers' compensation law to the successor if any of the following criteria are met:

- (a) The successor expressly or impliedly agrees to assume such obligations;
- (b) The succession transaction amounts to a de facto consolidation or merger;
- (c) The successor is merely a continuation of the predecessor; or
- (d) The succession transaction is entered into for the purpose of escaping obligations under the workers' compensation law.

~~If one or more of the criteria set forth in this paragraph is met, the bureau shall transfer the predecessor's rights and obligations under the workers' compensation law, regardless of whether the predecessor's transfer to the successor was voluntary or through an intermediary bank or receivership.~~

~~(2)~~ (3) The successor shall be credited with any credits of the predecessor, ~~including the advance premium security deposit of the predecessor.~~ This paragraph shall apply where an employer wholly succeeds another employer in the operation of a business on or after September 1, 2006.

~~(3)~~ (4) Transfer of risk coverage may be retroactive to the date of succession.

~~(4)~~ (5) The successor must preserve the predecessor's payroll records for the five years preceding the date of succession.

~~(5)~~ (6) A legal entity may be assigned only one risk. Where a legal entity succeeds one or more risks, he or it shall be assigned a single risk designation.