INDIANA
WORKFORCE
DEVELOPMENT
AND ITS WorkOne CENTERS

TO: Indiana's Workforce Investment System

FROM: Teresa L. Voors
Commissioner, Indiana Department of Workforce Development

THROUGH: Scott Sanders
Chief Financial Officer

DATE: January 2, 2009

SUBJECT: DWD Policy 2008-18
Successor Employers

Purpose
To further define who qualifies as a successor employer, the notice required, the disposition of experience accounts, and the liability for contribution

Rescission
None

Contents
In the interest of consistency in employer reporting and in determining contribution rates, the Indiana Department of Workforce Development (IDWD) makes determinations regarding the acquisition of an organization, trade, or business. Pursuant to Indiana Code § 22-4-10-6, this policy sets forth in further detail information regarding what notice is required of the affected employers, how the determinations affect experience, and how the merit rates are determined.

If an employer disposes of all or part of the assets of its business, organization, or trade (including the employer's workforce), that employer and the successor to that business or part of business must report the transaction to and complete all required forms for IDWD within thirty (30) days. At the end of thirty (30) days, IDWD will proceed with its determination regarding the acquisition.

<u>A non-employer acquiring all or part an employer's business, trade, or organization</u>
If there has been an acquisition, as determined by IDWD and the successor is an employing unit not considered an employer prior to the acquisition:

1. The predecessor's experience transfers to the successor either:
    a. entirely; or
    b. where there is a partial acquisition, in a percentage equal to the percentage of the business, trade, or organization transferred.

2. The successor immediately assumes the position of the predecessor with respect to the resources and liabilities as if no change had occurred.
3. Except as provided in IC § 22-4-11.5, as of the date of acquisition, the successor is liable for contributions owed on wages paid to the successor's own employees from January 1st of the year in which the acquisition occurs to the date of acquisition.
    a. If the successor had any employees prior to the date of acquisition, the rate of contribution from the first of the year to the date of acquisition on all taxable wages is 2.7%.
    b. The successor's rate of contribution as of the first day of the calendar quarter in which the acquisition occurs is the same as the predecessor's rate prior to the acquisition until the end of the calendar year.
4. Where a non-employer acquires all or part of two or more employers' businesses, trades, or organizations, the highest rate of contribution will apply.

An employer acquiring all or part an employer's business, trade, or organization
If there has been an acquisition, as determined by IDWD and the successor is an employing unit considered an employer prior to the acquisition:

1. The predecessor's experience transfers to the successor either:
    a. entirely; or
    b. where there is a partial acquisition, in a percentage equal to the percentage of the business, trade, or organization transferred.
2. The successor retains its rate of contribution until the end of the calendar year.
3. Where an employer acquires all or part of two or more employers' businesses, trades, or organizations, the highest rate of contribution will apply.

Predecessor
Where an employer has disposed of all or part of its business, trade, or organization, the employer will retain its rate of contribution until the end of the calendar year, at which time the rate will be either recalculated or the employer will cease to be an employer for unemployment insurance purposes.

Review Date
December 31, 2009

Ownership
Director of Unemployment Insurance Tax Administration
Indiana Department of Workforce Development
10 North Senate Avenue
Indianapolis, Indiana 46204
Telephone: 317.233.3150

Effective Date
January 1, 2009

Action
Indiana's workforce investment system will follow the guidance contained in this policy. Directors and managers will ensure that staff who work with this policy's subject matter are aware of the details contained in this policy and follow its guidelines.