

NEBRASKA ADMINISTRATIVE CODE

LAST REVISION DATE: May 23, 2008

TITLE 220 - DEPARTMENT OF LABOR

CHAPTER 6 - VOLUNTARY TRANSFER OF EXPERIENCE ACCOUNT

001. This chapter is adopted pursuant to *Neb. Rev. Stat.* §§48-654, ~~48-654.01~~ and 48-607.
002. An employer that acquires the organization, trade, business, or substantially all the assets of another employer may assume the position of such employer with respect to the resources and liabilities of such employer's experience account as if no change had occurred. Partial transfers are governed by 220 NAC 7.
003. Upon being notified of the acquisition of a business by another as in section 002, the Department shall provide to the successor employer the latest available balance of the predecessor's experience account as well as the predecessor employer's combined tax rate. The Department may provide forms for the purpose of applying for a transfer of the account.
004. An employer which desires to assume the resources and liabilities of the experience account of a predecessor employer shall make, within one-hundred twenty days of the acquisition, an application for a transfer of such experience account. An application may be withdrawn at any time within one hundred eighty (180) days following the date of acquisition by the successor employer.
005. The Department shall, upon the receipt of an application for transfer, determine if any of the following circumstances apply and, if so, will not allow a transfer of an experience account:
  - A. If the predecessor or successor employer has not fully paid all combined taxes due within sixty (60) days after the successor employer has made application for a transfer;
  - B. If the predecessor employer had paid no wages during the most recent complete calendar year; or
  - C. If the successor employer does not provide necessary information as requested by the Department pursuant to an application for a transfer.
006. Whenever there is a merger of accounts and the merger did not take place as of the beginning of a calendar quarter, the combined tax rate for the merged accounts will become effective as of the beginning of the quarter following the merger.
007. The Department shall notify the predecessor and successor employers if a transfer of an experience account has been allowed or denied. Should either party desire to contest the decision, a written appeal must be filed with the Department within thirty (30) days from the date of mailing of the notice. An appeal by the predecessor or successor will make

both parties to the appeal. Appeal hearings shall be conducted in the manner set out in 223 NAC 1.

008. A successor employer which continues to file combined tax reports and pay all combined taxes for predecessor employer and who fails to make an application with the Department for a transfer of the experience account within the time period provided in this chapter shall automatically receive the resources and liabilities of the predecessor employer's experience account.
009. Nothing in this chapter shall be read or interpreted to affect the provisions of *Neb. Rev. Stat.* §48-658 which states, in part, that an employer must notify the Department of Labor five days prior to the acquisition of another employer in order to avoid being liable for the combined tax due and unpaid of the previous employer.
010. The Department may redetermine a transfer allowed pursuant to this chapter whenever it finds that the transfer was granted on the basis of misrepresentations of fact, but in no case shall such redetermination be made more than four years after the date of the approval of the transfer.