



Ohio Revised Code

Section 4141.48 Acquisition of trade or business to lower contribution rate prohibited.

Effective: September 5, 2005

Legislation: Senate Bill 81 - 126th General Assembly

(A) No person shall acquire the trade or business of an employer, or a portion thereof, solely or primarily for the purpose of obtaining a lower rate of contributions under sections 4141.09, 4141.23, 4141.24, 4141.241, 4141.242, 4141.25, 4141.26, and 4141.27 of the Revised Code.

(B) In determining whether the trade or business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the director shall use objective factors that may include all of the following:

- (1) The cost of acquiring the trade or business;
- (2) Whether the person continued the trade or business of the acquired trade or business;
- (3) If the trade or business was continued, how long the trade or business was continued;
- (4) Whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to the acquisition.

(C) If a person knowingly violates, attempts to violate, or advises another person in a way that results in a violation of division (A) of this section or any other provision of this chapter related to determining the assignment of a contribution rate, the person is subject to the following penalties:

- (1) If the person is an employer, the director shall assign the employer the highest maximum rate or penalty rate assignable under this chapter for the rate year during which the violation or attempted violation occurred and the three rate years immediately following that rate year, except that, if the person's business is already at the highest rate for any of those years, or if the amount of increase in the person's rate would be less than two per cent for that year, then an additional penalty rate of contributions of two per cent of taxable wages shall be imposed for that year.



(2) If the person is not an employer, the director shall assess a fine of five thousand dollars.

(D) The director shall deposit any fine collected under division (C)(2) of this section into the special administrative fund established under section 4141.11 of the Revised Code.

(E) The director shall credit fifty per cent of amounts paid to the director under rates determined pursuant to division (C)(1) of this section to the individual employer's account and fifty per cent to the mutualized account established pursuant to division (B) of section 4141.25 of the Revised Code.

(F) The director shall round the contribution rates the director determines under division (C)(1) of this section to the nearest tenth of one per cent.

(G) For purposes of this section:

(1) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(2) "Person" has the same meaning as under "The Internal Revenue Code of 1986," 100 Stat. 2138, 26 U.S.C. 7701.

(3) "Trade or business" includes the employer's workforce.

(4) "Violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresentation, or willful nondisclosure.