

NEW SECTION

WAC 192-300-090 When does an employer become inactive or reactivated for purposes of unemployment insurance and how does this affect coverage of corporate officers? (1) An employer that has no employees or covered corporate officers for eight consecutive quarters shall automatically be considered to be an inactive employer.

(2) An active employer may change to inactive status if the employer notifies the department that it is no longer an active employer, has no employees at that time or for the foreseeable future, and has not elected coverage under RCW 50.24.160. The employer shall be considered inactive as of the effective date of the notice unless it is a corporation that has not exempted all its paid corporate officers. If the employer is a corporation and has not exempted all its paid corporate officers, it shall continue to be considered an active employer until the end of the calendar year. If it has no employees and has not elected coverage under RCW 50.24.160, the corporation shall no longer be considered an employer as of January 1st of the following calendar year.

Example A: Employer A (not a corporation) notifies the department that, as of June 30th, it no longer considers itself an active employer, has no employees at that time or for the foreseeable future, and has not elected coverage for otherwise exempt workers. The department will notify Employer A that it is considered inactive and Employer A will not have to file

reports for the quarter ending September 30th and beyond.

Example B: Employer Corporation B notifies the department that, as of June 30th, it no longer considers itself an active employer, has no employees at that time or for the foreseeable future, and has not elected coverage for otherwise exempt workers. If the corporation is dissolving or is no longer in business or has exempted all its paid corporate officers from coverage, the department will notify it that the corporation is considered inactive and that it will not have to file reports for the quarter ending September 30th and beyond. If the corporation is continuing as a corporation in which all personal services are performed by bona fide corporate officers and has not exempted all its paid corporate officers, the corporation shall continue to be considered an active employer until December 31st and must report quarterly and pay taxes on nonexempt corporate officers. As of the following January 1st, it will no longer be considered an employer.

(3) A corporation in which all personal services are performed only by bona fide corporate officers, that has no employees throughout a calendar year, and that has not elected coverage for corporate officers under RCW 50.24.160 shall not be covered for corporate officers for that year regardless of whether it has notified the department that it is no longer an active employer.

Example C: Employer Corporation C is an active employer with employees in year 1 and must file quarterly reports. It has not elected coverage for corporate officers, but has not

exempted them either, so Employer Corporation C must cover corporate officers in year 1. Throughout year 2, Employer Corporation C no longer has any employees and all personal services are performed by bona fide corporate officers, but fails to notify the department of the change. Employer Corporation C should submit quarterly "no payroll" reports. Because there are no employees in year 2, the corporate officers are no longer considered covered.

(4) An employer that had no employees and was not previously active in the calendar year and reactivates because it has employees or elects coverage under RCW 50.24.160 shall be considered an active employer as of the date it has employees or elects coverage. If the employer is a corporation, once it hires employees, it becomes an employer, so it must register and paid corporate officers become covered unless the corporation exempts them within thirty days. If the corporation does not exempt all of its paid corporate officers, the corporate officers that have not been exempted shall be reported and covered as of the date the employer became an active employer.

Example D: Employer D (not a corporation) had registered in a previous year with the department, but had no employees and was in inactive status as of January 1st. It hires employees for the first time that year on April 1st, notifies the department, and is restored to active status at that time. Employer D does not need to report to the department for the first quarter of the year because it was not an active employer at that time. Employer D must report and pay taxes beginning

with the quarter ending June 30th.

Example E: Employer Corporation E is a corporation that had been an active employer in previous years, but had no employees and was in inactive status as of January 1st. Employer Corporation E did not previously exempt its corporate officers from coverage, nor did it elect coverage for the officers, but because it was inactive and had no employees, it does not need to report or pay taxes on the corporate officers for the first quarter of the year. Employer Corporation E hires employees for the first time that year on April 1st, notifies the department, is restored to active status at that time, and does not exempt its paid corporate officers within thirty days of April 1st. Employer Corporation E must report and pay taxes on both employees and on corporate officers beginning with the quarter ending June 30th.

(5) An employer that had been in active status during the calendar year, became inactive, and then returns to active status during the same calendar year shall be considered in active status for the entire time since it first became active in that calendar year. If the employer is a corporation that has not exempted all of its paid corporate officers, the corporate officers that have not been exempted shall be reported and covered for the entire time since the corporation first became active in that calendar year.

Example F: Employer F changed from active status to inactive status and back to active status within the same calendar year. Employer F will be treated as if it had been in

active status for the entire time since it first became active that year.

AMENDATORY SECTION (Amending WSR 99-20-127, filed 10/6/99, effective 11/6/99)

WAC 192-300-100 Does the exception from "employment" for immediate family members ((of partners or corporate officers for)) apply to farms owned by corporations, limited liability companies (LLCs), or partnerships under RCW 50.04.150((-))? The exemption in RCW 50.04.150 for family members employed on "corporate farms" ((includes family membership of all legal entities)) applies regardless of the structure of the legal entity, including to a spouse or domestic partner or unmarried child under eighteen of a corporate officer, limited liability company (LLC) member, or partner operating the farm.

[Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.04.150. 99-20-127, § 192-300-100, filed 10/6/99, effective 11/6/99.]

AMENDATORY SECTION (Amending WSR 00-05-067, filed 2/15/00, effective 3/17/00)

WAC 192-300-190 Are owners of entities ((are not)) covered for unemployment insurance purposes((-))? ((The owners of a business as)) Businesses identified in RCW 50.04.080 and 50.04.090 include business entities such as limited liability companies, limited liability partnerships, etc. There is no employer-employee relationship in the services provided to the business by the owners, as defined in RCW 50.04.100. Therefore, owners, such as "members" of a limited liability company, partners of a partnership, or owners of a sole proprietorship are not covered for unemployment insurance purposes.

[Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-067, § 192-300-190, filed 2/15/00, effective 3/17/00

AMENDATORY SECTION (Amending WSR 07-23-127, filed 11/21/07, effective 1/1/08)

WAC 192-310-010 What reports are required from an employer? (RCW 50.12.070.) (1) Master business application.

Every person or unit with one or more individuals performing services for it in the state of Washington must file a master business application with the department of licensing.

(2) **Employer registration:**

(a) Every employer shall register with the department and obtain an employment security account number. Registration

shall include the names, Social Security numbers, mailing addresses, telephone numbers, and the effective dates in that role of natural persons who are spouses or domestic partners of owners and owners, partners, members, or corporate officers of an employer. Registration of corporations shall include the percentage of stock ownership for each corporate officer, delineated as zero percent, less than ten percent, or ten percent or more, and the family relationship of corporate officers to other corporate officers who own ten percent or more. Every employer shall report changes in owners, partners, members, corporate officers, and percentage of ownership of the outstanding stock of the corporation by corporate officers. The report of changes is due each calendar quarter at the same time that the quarterly tax and wage report is due.

(b) A nonprofit corporation that is an employer shall register with the department, but is not required to provide names, Social Security numbers, mailing addresses, or telephone numbers for corporate officers who receive no compensation from the nonprofit corporation with respect to their services for the nonprofit corporation.

(c) For purposes of this subsection:

(i) "Owner" means the owner of an employer operated as a sole proprietorship;

(ii) "Partner" means a general partner of an employer organized as a partnership, other than limited partners of a limited partnership who are not also general partners of the partnership;

(iii) "Member" means a member of an employer organized as a limited liability company, other than members who, pursuant to applicable law or the terms of the limited liability company's operating agreement or other governing documents, have no right to participate in the management of the limited liability company; and

(iv) "Corporate officer" means an officer described in the bylaws or appointed or elected by the board of directors in accordance with the bylaws or articles or certificates of incorporation of an employer organized as a for-profit or nonprofit corporation.

(3) Quarterly tax and wage reports:

(a) Tax report. Each calendar quarter, every employer must file a tax report with the commissioner. The report must list the total wages paid to every employee during that quarter.

(b) Report of employees' wages. Each calendar quarter, every employer must file a report of employees' wages with the commissioner. This report must list each employee by full name, Social Security number, and total hours worked and wages paid during that quarter.

(i) Social Security numbers are required for persons working in the United States;

(ii) If an individual has a Social Security card, he or she must present the card to the employer at the time of hire or shortly after that. This does not apply to agricultural workers who, under federal rules, may show their Social Security card on the first day they are paid;

(iii) If the individual does not have a Social Security card, Internal Revenue Service rules allow an employer to hire the individual with the clear understanding that the individual will apply for a Social Security number within seven calendar days of starting work for the employer. The individual must give the employer a document showing he or she has applied for a Social Security card. When the card is received, the individual must give the employer a copy of the card itself. An employer should keep copies of the document(s) for his or her records; and

(iv) If the employee does not show his or her Social Security card or application for a card within seven days and the employer continues to employ the worker, the employer does not meet the reporting requirements of this section. The department will not allow waiver of the incomplete report penalty (see WAC 192-310-030).

(c) Format. Employers must file the quarterly tax and wage reports in one of the following formats:

(i) Electronically, using the current version of employer account management services (EAMS), *UIFastTax*, *UIWebTax*, or ICESA Washington; or

(ii) Paper forms supplied by the department (or an approved version of those forms). Agency forms include "drop-out ink" that cannot be copied. Therefore, photocopies are considered incorrectly formatted reports and forms.

(d) Due dates. The quarterly tax and wage reports are due by the last day of the month following the end of the calendar

quarter being reported. Calendar quarters end on March 31, June 30, September 30 and December 31 of each year. So, reports are due by April 30, July 31, October 31, and January 31, in that order. If these dates fall on a Saturday, Sunday, or a legal holiday, the reports will be due on the next business day. Reports submitted by mail will be considered filed on the postmarked date. The commissioner must approve exceptions to the time and method of filing in advance.

(e) Termination of business. Each employer who stops doing business or whose account is closed by the department must immediately file:

(i) A tax report for the current calendar quarter which covers tax payments due on the date the account is closed; and

(ii) A report of employees' wages for the current calendar quarter which includes all wages paid as of the date the account is closed.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-010, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-310-010, filed 9/9/05, effective 10/10/05; 04-23-058, § 192-310-010, filed 11/15/04, effective 12/16/04. Statutory Authority: RCW 50.12.070. 98-14-068, § 192-310-010, filed 6/30/98, effective 7/31/98.]

AMENDATORY SECTION (Amending WSR 07-23-127, filed 11/21/07, effective 1/1/08)

WAC 192-310-020 When are tax payments by employers due?
(RCW 50.24.010.)~~((-))~~ (1) Taxes must be paid each quarter. Each quarterly payment must include the taxes owed on all wages paid during that calendar quarter. Payments are due to the department by the last day of the month following the end of the calendar quarter for which taxes are due. Payments made by mail are considered paid on the postmarked date. If the last day of the month falls on a Saturday, Sunday, or a legal holiday, the tax payment must be received or postmarked on the next business day.

(2) Tax payments are due immediately when an employer goes out of business or the account is closed by the department. Taxes not paid immediately are delinquent. However, interest will not be added until the first day of the second month following the end of the calendar quarter for which the taxes are owed.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-020, filed 11/21/07, effective 1/1/08; 07-22-055, § 192-310-020, filed 11/1/07, effective 12/2/07; 98-14-068, § 192-310-020, filed 6/30/98, effective 7/31/98.]

AMENDATORY SECTION (Amending WSR 04-23-058, filed 11/15/04, effective 12/16/04)

WAC 192-310-025 (~~(Application of)~~) How are payments(~~(-)~~) applied?

(1) A payment received with a tax report will be applied to the quarter for which the report is filed. A payment exceeding the legal fees, penalties, interests and taxes due for that quarter will be applied to any other debt as provided in subsection (2). If no debt exists, a credit statement will be issued for any overpayments.

(2) If a payment is received (~~(without)~~) separately from a tax report, the payment will be applied in the following order of priority(~~(-)~~). It will first be applied to the current quarter if a balance is owed for that quarter, then to the previous quarter if a balance is owed for that quarter, then beginning with the oldest quarter in which a balance is owed:

(a) Costs of audit and collection(~~(-)~~);

(b) Penalties for willful misrepresentation of payroll(~~(-)~~);

(c) Lien fees(~~(-)~~);

(d) Warrant fees(~~(-)~~), surcharges, and fees for nonsufficient funds (NSF) on checks;

(e) Penalties for knowingly failing to register with the department;

(f) Penalties for late tax reports (~~(penalty-)~~);

(~~(-f)~~) (g) Penalties for incomplete reporting (~~(-e)~~);

(h) Penalties for reporting using incorrect format(~~(-)~~);

~~((g))~~ (i) Penalties for failure to maintain records (RCW 50.12.070(3)) or other penalties not otherwise specified here;

(j) Penalties for late tax payments (~~(penalty-)~~);

~~((h))~~ (k) Interest charges(~~(-)~~); and

~~((i))~~ (l) Tax payments.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 04-23-058, § 192-310-025, filed 11/15/04, effective 12/16/04. Statutory Authority: RCW 50.12.010 and 50.12.040. 98-14-068, § 192-310-025, filed 6/30/98, effective 7/31/98.]

AMENDATORY SECTION (Amending WSR 07-23-127, filed 11/21/07, effective 1/1/08)

WAC 192-310-030 What are the report and tax payment penalties and charges? (RCW 50.12.220.) (1) Penalty for late tax reports. An employer who does not file a tax report within the time frame required by WAC 192-310-010 (3)(d) must pay a penalty of twenty-five dollars for each violation, unless the penalty is waived by the department.

(2) Definition of incomplete or incorrect format tax report. An employer must file a tax report that is complete and in the format required by the commissioner.

(a) An "incomplete report" is any report filed by any employer or their agent where:

(i) The entire wage report is not filed on time; or

(ii) A required element is not reported (Social Security number, name, hours worked, or wages paid); or

(iii) A significant number of employees are not reported; or

(iv) A significant number of any given element is not reported, for example, missing Social Security numbers, names, hours, or wages; or

(v) Either the employer reference number or Unified Business Identifier (UBI) number is not included with the tax or wage report; or

(vi) The report includes duplicate Social Security numbers, or impossible Social Security numbers as shown by the Social Security Administration (such as 999-99-9991, 999-99-9992, etc.).

(b) An "incorrect format" means any report that is not filed in the format required by the commissioner under WAC 192-310-010 (3)(c). Agency forms include "drop-out ink" that cannot be copied. Therefore, photocopies are considered incorrectly formatted reports and forms.

(c) For purposes of this section, the term "significant" means an employer who has:

(i) One employee and reports incomplete wage elements for the one employee; or

(ii) Two to nineteen employees and reports incomplete wage elements for two or more employees; or

(iii) Twenty to forty-nine employees and reports incomplete wage elements for three or more employees; or

(iv) Fifty or more employees and reports incomplete wage elements for four or more employees.

(3) **Penalty for filing an incomplete or incorrect format tax report.** An employer who files an incomplete or incorrectly formatted tax and wage report will receive a warning letter for the first occurrence. For subsequent occurrences of either an incomplete or incorrectly formatted report within five years of the date of the last occurrence (whether or not the last occurrence was before the effective date of this amendatory section), the employer must pay a penalty as follows:

(a) When quarterly tax is due and an employer has submitted an incomplete report or filed the report in an incorrect format, the following schedule will apply after the initial warning letter: Ten percent of the quarterly contributions for each occurrence, up to a maximum of \$250.00, but not less than:

| | |
|--------------------------------------|----------|
| (i) 2nd occurrence | \$75.00 |
| (ii) 3rd occurrence | \$150.00 |
| (iii) 4th and subsequent occurrences | \$250.00 |

(b) When no quarterly tax is due and an employer has submitted an incomplete report or filed the report in an incorrect format, the following schedule will apply after the initial warning letter:

| | |
|--------------------------------------|----------|
| (i) 2nd occurrence | \$75.00 |
| (ii) 3rd occurrence | \$150.00 |
| (iii) 4th and subsequent occurrences | \$250.00 |

(c) After five years without an occurrence, prior occurrences will not count and the employer shall receive a

warning letter instead of a penalty on the next occurrence.

(4) **Penalty for knowingly misrepresenting amount of payroll.** If an employer knowingly (on purpose) misrepresents to the department the amount of his or her payroll that is subject to unemployment taxes, the penalty is up to ten times, in the discretion of the department, the difference between the taxes paid, if any, and the amount of taxes the employer should have paid for the period. This penalty is in addition to the amount the employer should have paid. The employer must also pay the department for the reasonable expenses of auditing his or her books and collecting taxes and penalties due as provided in WAC 192-340-100.

(5) **Late tax payments.** All employers must file a tax report every quarter, including employers who have no payroll for a given quarter. If an employer does not report on time, it will be charged a late fee of \$25.00 for each report. If the payment is late, the employer will be charged interest at a rate of one percent of taxes due per month. A late payment penalty is also charged for overdue taxes:

(a) First month: Five percent of the total taxes due or \$10.00, whichever is greater;

(b) Second month: An additional five percent of total taxes due or \$10.00, whichever is greater; and

(c) Third month: An additional ten percent of total taxes due or \$10.00, whichever is greater.

(6) **Nonsufficient funds (NSF).** The department shall charge \$25.00 for checks dishonored by nonacceptance or nonpayment.

This is considered a commercial charge under the Uniform Commercial Code (RCW 62A.3-515).

(7) Waivers of late filing and late payment penalties. The department may, for good cause, waive penalties for late filing of a report and late payment of taxes that are due with a report. The commissioner must decide if the failure to file reports or pay taxes on time was not the employer's fault.

(a) The department may waive late penalties when there are circumstances beyond the control of the employer. These circumstances include, but may not be limited to, the following:

(i) The return was filed on time with payment but inadvertently mailed to another agency;

(ii) The delinquency was caused by an employee of the department, such as providing incorrect information to the employer, when the source can be identified;

(iii) The delinquency was caused by the death or serious illness, before the filing deadline, of the employer, a member of the employer's immediate family, the employer's accountant, or a member of the accountant's immediate family;

(iv) The delinquency was caused by the unavoidable absence of the employer or key employee before the filing deadline. "Unavoidable absence" does not include absences because of business trips, vacations, personnel turnover, or terminations;

(v) The delinquency was caused by the accidental destruction of the employer's place of business or business records;

(vi) The delinquency was caused by fraud, embezzlement,

theft, or conversion by the employer's employee or other persons contracted with the employer, which the employer could not immediately detect or prevent. The employer must have had reasonable safeguards or internal controls in place; or

(vii) The employer, before the filing deadline, requested proper forms from the department's central office or a district tax office, and the forms were not supplied in enough time to allow the completed report to be filed and paid before the due date. The request must have been timely, which means at least three days before the filing deadline.

(b) The department may waive late penalties if it finds the employer to be out of compliance during an employer-requested audit, but the department decides the employer made a good faith effort to comply with all applicable laws and rules; ~~((and))~~

(c) The department may waive late penalties for failure to file a "no payroll" report for one quarter if a new business initially registered that it would have employees that quarter, but then delayed hiring its first employees until after that quarter; and

(d) The department will not waive late penalties if the employer has been late with filing or with payment in any of the last eight consecutive quarters immediately preceding the quarter for which a waiver is requested. If an employer has been in business for fewer than the eight preceding quarters, then all preceding quarters must have been filed and paid on time and a one-time only waiver may be granted.

~~((+7))~~ (8) **Incomplete reports or incorrect format penalty**

waivers. For good cause, the department may waive penalties or not count occurrences for incomplete reports or reports in an incorrect format when the employer can demonstrate that the incomplete or incorrectly formatted report was not due to the fault of the employer.

~~((8))~~ **(9) Missing and impossible Social Security numbers.**

When a Social Security number is impossible or missing, the department may waive penalties for incomplete reports only once for each worker and only when:

(a) The report was incomplete because it included impossible Social Security numbers, but the employer can show that the impossible Social Security numbers were provided to the employer by the employees; or

(b) The report was incomplete because of missing Social Security numbers, but the employer can show that the employee did not work for the employer after failing to provide a valid Social Security card or application for Social Security number within seven days of employment.

~~((9))~~ **(10) Penalty waiver requests.**

(a) An employer must request a waiver of penalties in writing, include all relevant facts, attach available proof, and file the request with a tax office. In all cases the burden of proving the facts is on the employer.

(b) At its discretion, the department may waive penalties on its own motion without requiring a request from the employer if it finds that the penalty was caused by the department's own error or for other good cause.

~~((10))~~ (11) **Extensions.** The department, for good cause, may extend the due date for filing a report. If granted, the employer must make a deposit with the department in an amount equal to the estimated tax due for the reporting period or periods. This deposit will be applied to the employer's debt. The amount of the deposit must be approved by the department.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-030, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-310-030, filed 9/9/05, effective 10/10/05; 04-23-058, § 192-310-030, filed 11/15/04, effective 12/16/04. Statutory Authority: RCW 50.12.010 and 50.12.040. 98-14-068, § 192-310-030, filed 6/30/98, effective 7/31/98.]

AMENDATORY SECTION (Amending WSR 07-23-127, filed 11/21/07, effective 1/1/08)

WAC 192-310-040 (~~(Employer reports--Further defining)~~) How should employers report hours worked? (RCW 50.12.070.)~~((-))~~

This section defines the hours that employers must include on the quarterly tax and wage report.

(1) **Vacation pay.** Report the number of hours an employee is on paid leave. Do not report payments made in place of vacation time as hours worked.

(2) **Sick leave pay.** As provided in RCW 50.04.330(1), any

payments made to an employee under a qualified plan for sickness or accident disability, insurance or annuities, medical or hospitalization expenses in connection with sickness or accident disability, death or retirement are not considered wages or compensation. Do not report these as hours or wages. For payments under a nonqualified plan, report both wages and hours.

(3) **Overtime.** Report the number of hours actually worked for which overtime pay or compensatory time is provided, without regard to the amount of wages or compensation paid.

(4) **Commissioned or piecework employees.** Report the actual number of hours worked by employees paid by commission or by piecework. If there are no reliable time keeping records, report a full-time commissioned or piecework employee for forty hours worked for each week in which any of their duties were performed.

(5) **Wages in lieu of notice.** When an employee is paid wages in lieu of notice of termination, report the actual number of hours for which they were paid. Wages in lieu of notice of termination pays the employee whose services have been terminated by the employer for the amount of wages they would have earned during the notice period.

(6) **Employees on salary.** If a salaried employee works other than the regular forty-hour week, report the actual number of hours worked. If there are no reliable time keeping records, report forty hours for each week in which a full-time salaried employee worked.

(7) **Faculty employees.** Faculty members of community and

technical colleges must teach at least fifteen classroom or laboratory hours to be considered full-time. A teaching load of less than fifteen hours of instruction is considered part-time.

(a) If there is no reliable hourly information, report the hours of instruction as part-time based on fifteen credits as a full-time teaching load and thirty-five hours as full-time employment for a week. For example, an instructor teaches twelve credits per week. Twelve divided by fifteen equals eighty percent. Thirty-five hours times eighty percent equals twenty-eight hours. The employer should report the twenty-eight hours to the department on the employer's quarterly tax and wage report.

(b) Any part-time salaried instructor who does not establish a valid claim because of this formula may provide the department with evidence of hours worked that exceeds the hours reported by the employer.

(8) **Severance pay.** Do not report additional hours for severance pay. Report only the dollar amount paid to the employee. Severance pay is taxable because it is based on past service and compensates the employee upon job separation.

(9) **Payment in kind.** Report the actual hours worked for performing services which are compensated only by payment in kind.

(10) **Bonuses, tips and other gratuities.** Do not report additional hours for bonuses, tips or other gratuities if they are received by an employee who is working regular hours if bonuses, tips and gratuities are the only sources of

compensation.

(11) **Fractions of hours.** If the employee's total number of hours for the quarter results in a fraction amount, round the total to the next higher whole number.

(12) **Practice, preparation, and rehearsal time.** If an employee who is part of a performing group is paid for a performance, but is also required by the employer to attend practice, preparation, and rehearsal on an organized group basis, report the hours spent in the required practice, preparation, and rehearsal as well as the performance.

(13) **On-call and standby hours.** Do not report hours if an employee is paid for a shift of on-call or standby hours in which the employee was not actually called in and did not perform services. If the employee was called in or performed services, report the hours actually worked. If the employer has no records of the number of hours actually worked, report the duration of the shift up to eight hours per day.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-040, filed 11/21/07, effective 1/1/08. Statutory Authority: Chapters 34.05 and 50.12 RCW, RCW 50.12.070 and 50.04.330(1). 99-20-141, § 192-310-040, filed 10/6/99, effective 11/6/99.]

AMENDATORY SECTION (Amending WSR 00-01-164, filed 12/21/99, effective 1/21/00)

WAC 192-310-050 (~~(Employer)~~) **What records**(~~(-)~~) **must every employer keep?** (RCW 50.12.070.) The commissioner requires every employer to keep true and accurate business, financial, and employment records which are deemed necessary for the effective administration of chapter 50.12 RCW.

(1) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for four calendar years following the calendar year in which employment occurred:

~~((a-))~~ **(a)** The name of each worker;

~~((b-))~~ **(b)** The Social Security number of each worker;

~~((c-))~~ **(c)** The beginning date of employment for each worker and, if applicable, the separation date of employment of each worker;

~~((d-))~~ **(d)** The basis upon which wages and/or remuneration are paid to each worker;

(e) The location where such services were performed;

~~((f-))~~ **(f)** A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each day;

~~((g-))~~ **(g)** The workers' total gross pay period earnings;

~~((h-))~~ **(h)** The specific sums withheld from the earnings of

each worker, and the purpose of each sum withheld to equate to net pay; and

~~((i-))~~ (i) The cause for any discharge where a worker was separated from the job due to discharge; or the cause of any quit where a worker quit the job if the cause for the quit is known.

(2) Business, financial records, and record retention.

Every employer shall make, keep, and preserve business and financial records containing the following information for four calendar years following the calendar year in which employment occurred:

(a) Payroll and accounting records, including payroll ledgers, all check registers and canceled checks covering both payroll and general disbursements, general and subsidiary ledgers, disbursement and petty cash records, and profit and loss statements or financial statements;

(b) Quarterly and annual tax reports, including W-2, W-3, 1099, 1096, and FUTA (940) forms;

(c) Quarterly reports to the employment security department and the department of labor and industries;

(d) For independent contractors and subcontractors, business license numbers and registration numbers and copies of contract agreements and invoices; and

(e) For years prior to 2009 for corporations that did not voluntarily elect to cover corporate officers for unemployment insurance, copies of written notifications to corporate officers that they were ineligible for unemployment insurance benefits.

(3) Employers who pay their workers by check are required to keep and preserve all check registers and bank statements. Employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(4) Penalties for failure to keep and preserve records shall be determined under RCW 50.12.070(3).

[Statutory Authority: Chapters 34.05 and 50.12 RCW. 00-01-164, § 192-310-050, filed 12/21/99, effective 1/21/00. Formerly WAC 192-12-050 (part).]

AMENDATORY SECTION (Amending WSR 07-22-055, filed 11/1/07, effective 12/2/07)

WAC 192-310-055 ~~((Employer))~~ What additional records~~((--))~~ must farm operators or farm labor contractors~~((--))~~ keep? (RCW 50.04.155 and 50.12.070.) ~~((Every employer is required to keep true and accurate employment records.))~~

(1) Farm operators and farm labor contractors must keep the records required under WAC 192-310-050.

(2) Farm operators who contract with a crew leader or a farm labor contractor must keep original records containing the following information:

- (a) The beginning and ending dates of the contract;
- (b) The types of services performed;

- (c) The number of persons performing such services;
- (d) The name of the contractor or crew leader; and
- (e) Evidence the farm labor contractor is licensed as required by chapter 19.30 RCW.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-310-055, filed 11/1/07, effective 12/2/07. Statutory Authority: Chapters 34.05 and 50.12 RCW. 00-01-166, § 192-310-055, filed 12/21/99, effective 1/21/00. Formerly WAC 192-12-050 (part).]

AMENDATORY SECTION (Amending WSR 10-01-156, filed 12/22/09, effective 1/22/10)

WAC 192-310-160 How may corporations exempt corporate officers from unemployment insurance coverage? (1) Subject to RCW 50.04.165 and the other requirements of this section, a corporation may exempt one or more corporate officers from coverage by notifying the department on a form approved by the department. The form must be signed by each exempted officer. Unless the corporate officer exempted is the only officer of the corporation, the form must also be signed by another corporate officer verifying the decision to be exempt from coverage.

(2) The election to exempt corporate officers is effective immediately if made within thirty days of when the corporation first registers with the department as an employer under RCW

50.12.070 or within thirty days of when the corporation changes its status with the department from inactive to active employer. If the election to exempt corporate officers is made after that, the exemption is effective on January 1 of the following calendar year. The corporation must send written notice to the department by January 15 for the exemption to be effective on January 1 of that year. The exemption is not effective until filed with the department and will not be applied retroactively, except for the period from January 1 to January 15 if the notice is sent by January 15. A corporation is not eligible for refund or credit for periods before the effective date of the exemption.

(3) A public company as defined in RCW 23B.01.400 may exempt any bona fide corporate officer:

(a) Who is voluntarily elected or voluntarily appointed under the articles of incorporation or bylaws of the corporation;

(b) Who is a shareholder of the corporation;

(c) Who exercises substantial control in the daily management of the corporation; and

(d) Whose primary responsibilities do not include the performance of manual labor.

(4) A corporation that is not a public company may exempt eight or fewer bona fide corporate officers who voluntarily agree to be exempted from coverage and sign a form approved by the department verifying this. These corporate officers must be voluntarily elected or voluntarily appointed under the articles

of incorporation or bylaws of the corporation and must exercise substantial control in the daily management of the corporation.

(5) A corporation that is not a public company may exempt any number of corporate officers if all exempted officers of the corporation are related by blood within the third degree or by marriage to a person related by blood within the third degree. If any of the corporate officers fail to qualify for this exemption because they are not related by blood or marriage as required, then none of the corporate officers may qualify under this subsection, although they may still qualify under subsection (4) of this section. This is an alternative and not an addition to exemptions under subsection (4) of this section.

For example, a husband and wife or a domestic partner, their biological or adopted children or stepchildren, grandchildren, and great grandchildren, their brothers and sisters, their nephews and nieces, and the spouses or domestic partners of any of these people could qualify for exemption as corporate officers under this section without being limited to eight individuals. However, if any of the corporate officers exempted do not meet this test, then this subsection does not apply.

(6) This section does not apply to officers of a corporation covered by chapter 50.44 RCW (some nonprofit or government organizations) or chapter 50.50 RCW (Indian tribes).

[Statutory Authority: RCW 50.12.010, 50.12.040, and 34.05.120. 10-01-156, § 192-310-160, filed 12/22/09, effective 1/22/10.

Statutory Authority: RCW 50.12.010 and 50.12.040. 09-07-010, §
192-310-160, filed 3/5/09, effective 4/5/09; 07-23-127, § 192-
310-160, filed 11/21/07, effective 1/1/09.]

AMENDATORY SECTION (Amending WSR 10-01-156, filed 12/22/09, effective 1/22/10)

WAC 192-310-190 When is a corporate officer with ten percent ownership considered unemployed? (1) This section applies to:

(a) A corporate officer who owns ten percent or more (~~of the outstanding stock~~) of the corporation; or

(b) A corporate officer who is a family member of another corporate officer who owns ten percent or more (~~of the outstanding stock~~) of the corporation. For purposes of this section, a "family member" is a person related by blood or marriage or domestic partnership as parent, stepparent, grandparent, spouse or domestic partner, child, brother, sister, stepchild, adopted child, or grandchild.

(c) Percentage ownership of the corporation may be measured by the percentage owned of outstanding stock or shares of the corporation.

(2) A corporate officer whose claim for benefits is based on any wages with that corporation is not considered unemployed in any week during the individual's term of office, even if wages are not being paid at the time. The corporate officer is considered unemployed and potentially eligible for benefits if the corporation dissolves or if the officer permanently resigns or is permanently removed as a corporate officer under the

articles of incorporation or bylaws.

(3) For purposes of this section, "permanently" means for a period of indefinite duration, but expected to extend at least through the claimant's benefit year end date. If at any time during the benefit year the claimant resumes his or her position as an officer with the corporation, all benefits paid during that benefit year will be considered an overpayment and the claimant will be liable for repayment.

(4) A corporation must provide notice to the department in a format approved by the department when the ownership (~~of the~~) percentage of (~~stock~~) a corporate officer increases to become ten percent or more or decreases to become less than ten percent. The notice is due by the time the next quarterly tax and wage report is due from the corporation.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 34.05.120. 10-01-156, § 192-310-190, filed 12/22/09, effective 1/22/10. Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-190, filed 11/21/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 05-19-017, filed 9/9/05, effective 10/10/05)

WAC 192-320-005 What is "experience?"~~((--))~~ (RCW 50.29.021.) As used in this chapter, the term "experience" includes matters that have a direct relation to the risk of unemployment. Any benefits paid that are based on wages paid by the employer and chargeable under RCW ~~((50.29.020))~~ 50.29.021 are considered experience.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-320-005, filed 9/9/05, effective 10/10/05.]

AMENDATORY SECTION (Amending WSR 10-16-038, filed 7/26/10, effective 8/26/10)

WAC 192-320-065 How does an employer request relief of benefit charges? (RCW 50.29.021.) For purposes of RCW 50.29.021, a contribution-paying ~~((nonlocal-government))~~ base year employer may request relief from certain benefit charges which result from the payment of benefits to an individual. This section does not apply to local governments.

(1) **Employer added to a monetary determination as the result of a redetermination.** The employer's request for relief of benefit charges must be received or postmarked within thirty days of ~~((mailing))~~ when the department mails the notification

of redetermination (Notice to Base Year Employer - EMS 166).

(2) **Timely response.** The commissioner may consider a request for relief of benefit charges that has not been received or postmarked within thirty days as timely if the employer establishes good cause for the untimely response.

(3) **Additional information.**

(a) The employer shall provide the information requested by the department within thirty days of the mailing date of the department's request.

(b) It shall be the responsibility of the employer to provide all pertinent facts to the satisfaction of the department to make a determination of relief of benefits charges, or good cause for failure to respond in a timely manner.

(c) Failure to respond within thirty days will result in a denial of the employer's request for relief of benefit charges unless the employer establishes good cause for the untimely response.

(4) **Denial and appeal of request.** Any denial of a request for relief of benefit charges shall be in writing (~~and will be the basis of appeal pursuant to~~). The denial may be appealed under RCW 50.32.050.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 10-16-038, § 192-320-065, filed 7/26/10, effective 8/26/10. Statutory Authority: Chapter 34.05 RCW and RCW 50.20.020(2). 00-01-167, § 192-320-065, filed 12/21/99, effective 1/21/00.]

AMENDATORY SECTION (Amending WSR 07-23-127, filed 11/21/07, effective 1/1/08)

WAC 192-320-070 What conditions apply for relief of benefit charges due to a voluntary quit? (RCW 50.29.021.) (1)

A contribution-paying (~~(nonlocal—government)~~) base year employer, who has not been granted relief of charges under RCW 50.29.021(3), may request relief of charges for a voluntary quit not attributable to the employer under RCW 50.29.021(4) and WAC 192-320-065. This section does not apply to local governments.

(2) **Reasons for a voluntary quit not attributable to the employer.** A claimant may have been denied unemployment benefits for voluntarily quitting work without good cause, but subsequently requalify for unemployment benefits through work and earnings. Even if the claimant has requalified for benefits, the following reasons for leaving work will be considered reasons not attributable to the employer:

(a) The claimant's illness or disability or the illness, disability or death of a member(s) of the claimant's immediate family;

(b) The claimant's domestic responsibilities;

(c) Accepting a job with another employer;

(d) Relocating for a spouse's or domestic partner's employment;

(e) Starting or resuming school or training;

(f) Being in jail;

(g) The distance to the job site when the job was accepted and the distance at the time of the quit remained the same; or the job location may have changed but the distance traveled or difficulty of travel was not increased;

(h) Being dissatisfied with wages, hours or other working conditions generally known when the job was accepted; and the working conditions are determined suitable for the occupation in the claimant's labor market; and

(i) (~~Domestic violence which causes the claimant reasonably to believe that continued employment would jeopardize the safety of~~) Separation necessary to protect the claimant or any member of the claimant's immediate family from domestic violence or stalking; and

(j) Entry into an apprenticeship program approved by the Washington state apprenticeship training council.

(3) **Reasons for a voluntary quit considered attributable to employer** are those work-related factors of such a compelling nature as to cause a reasonably prudent person to leave employment. The work factors must have been reported to the employer if the employer has reasons not to be aware of the conditions, and the employer failed to improve the factors within a reasonable period of time. The reason for quitting may or may not have been determined good cause for voluntarily leaving work under RCW 50.20.050. For benefit charging purposes, however, such work-related factors may include, but are not limited to:

(a) Change in work location which causes an increase in distance and/or difficulty of travel, but only if it is clearly greater than is customary for workers in the individual's classification and labor market;

(b) Deterioration of work site safety provided the employee has reported such safety deterioration to the employer and the employer has failed to correct the hazards within a reasonable period of time;

(c) Employee skills no longer required for the job;

(d) Unreasonable hardship on the health or morals of the employee;

(e) Reductions in hours;

(f) Reduction in pay;

(g) Notification of impending layoff; and

(h) Other work-related factors the commissioner considers pertinent.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-320-070, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 04-23-058, § 192-320-070, filed 11/15/04, effective 12/16/04. Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-069, § 192-320-070, filed 2/15/00, effective 3/17/00.]

AMENDATORY SECTION (Amending WSR 03-22-032, filed 10/28/03, effective 11/28/03)

WAC 192-330-110 (~~Delinquencies~~) What tax rate is assigned to a delinquent employer who becomes a contribution-paying employer? RCW 50.29.025 (~~((1)(f)(i) and (2)(e)(i))~~) specifies the tax rate that shall be charged to employers who have failed to pay their contributions and who are not in compliance with a deferred payment contract. The tax rate established by that section shall also be assigned to a reimbursable employer (one who makes payments in lieu of contributions) who is delinquent in its payments and elects or is required to become a contribution-paying employer.

[Statutory Authority: RCW 50.12.010, 50.12.040. 03-22-032, § 192-330-110, filed 10/28/03, effective 11/28/03.]

AMENDATORY SECTION (Amending WSR 03-22-032, filed 10/28/03, effective 11/28/03)

WAC 192-330-150 How may the option to make payments in lieu of contributions be revoked for tribes and tribal entities((--))? (RCW 50.50.040.) (1) In any revocation action, the department will treat the entire tribe as a single entity. If any tribal entity or unit becomes delinquent, the entire tribe will be treated as delinquent. If any entity of the tribe is a contribution-paying employer and is delinquent, the entire tribe will be treated as a contribution-paying employer and will be subject to revocation of coverage.

(2) The ninety day response period in RCW 50.50.040 (1)(a) and the one hundred eighty day response period((s)) in RCW 50.50.040 (2)(a) begin with the date the tax statement is received, which is deemed to be three days after it is mailed to the employer by the department.

[Statutory Authority: RCW 50.12.010, 50.12.040. 03-22-032, § 192-330-150, filed 10/28/03, effective 11/28/03.]

AMENDATORY SECTION (Amending WSR 04-23-058, filed 11/15/04, effective 12/16/04)

WAC 192-340-100 What reasonable audit expenses((--)) may the department charge if an employer knowingly misrepresents payroll? (RCW 50.12.220 ((~~(1)(b)~~)) (3).) If an employer knowingly misrepresents its payroll to the department, it shall be liable for the reasonable expenses ((~~for~~)) of auditing ((~~an employer's~~)) its books and collecting taxes. These may include:

(1) Salaries and benefits based on the payrolls documented for state staff conducting the audit (including reporting and follow-up costs);

(2) Communication costs such as telephone charges for arranging the audit, e-mails, mail or similar communication services;

(3) Travel costs for expenses such as transportation, lodging, subsistence and related items incurred by state employees traveling for the purpose of conducting the audit. Such costs may be charged on an actual cost basis or on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed by the department;

(4) Customary standard commercial airfare costs (coach or equivalent);

(5) Costs for materials and supplies (including the costs of producing reports and audit findings);

- (6) Equipment costs necessary for conducting the audit;
- (7) Collection costs, including court costs, lien and warrant fees, and related costs; and
- (8) Other costs which the department establishes that are directly related to the audit or collection of the penalty (~~((i.e.))~~ e.g., appeal costs).

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 04-23-058, § 192-340-100, filed 11/15/04, effective 12/16/04.]

AMENDATORY SECTION (Amending WSR 07-23-131, filed 11/21/07, effective 1/1/08)

WAC 192-350-010 What is a predecessor-successor relationship? (1) This section applies only to those individuals and organizations that meet the definition of an employer contained in RCW 50.04.080.

(2) A predecessor-successor relationship exists when a transfer occurs and one business (successor) acquires all or part of another business (predecessor). It may arise from the transfer of operating assets, including but not limited to the transfer of one or more employees from a predecessor to a successor. It may also arise from an internal reorganization of affiliated companies. Whether or not a predecessor-successor relationship (including a "partial predecessor" or "partial successor" relationship) exists depends on the totality of the circumstances.

(3) **Predecessor.** An employer may be a "predecessor," including a "full predecessor" or "partial predecessor," if, during any calendar year, it transfers any of the following to another individual or organization:

(a) All or part of its operating assets as defined in subsection (5) of this section; or

(b) A separate unit or branch of its trade or business.

(4) **Successor.** A "successor" may be either a "full successor" or a "partial successor." An employer may be a "full successor" if, during any calendar year, it acquires substantially all of a predecessor employer's operating assets. It may be a "partial successor" if, during any calendar year, it acquires:

(a) Part of a predecessor employer's operating assets; or

(b) A separate unit or branch of a predecessor employer's trade or business.

(5) **Operating assets.** "Operating assets" include the resources used in the normal course of business to produce operating income. They may include resources that are real or personal, and tangible or intangible. Examples include land, buildings, machinery, equipment, stock of goods, merchandise, fixtures, employees, or goodwill. "Goodwill" includes the value of a trade or business based on expected continued customer patronage due to its name, reputation, or any other factor.

(6) **Transfer of assets.** Transfers from a predecessor to a successor employer may occur by sale, lease, gift, or any legal process, except those listed in subsection (9) of this section.

(7) **Simultaneous acquisition.** For purposes of successor simultaneous acquisition, the term "simultaneous" means all transfers that resulted from acquiring or reorganizing the business, beginning when the acquisition started and ending when the primary unit is transferred.

(8) **Factors.** Factors should be weighed instead of merely adding up the number of individual factors. No single factor is necessarily conclusive(~~(, but)~~). Some of the factors which the department may consider as favoring establishment of a predecessor-successor (including a "full successor" or "partial successor") relationship are:

(a) Whether the employers are in the same or a like business (e.g., providing similar or comparable goods or services or serving the same market);

(b) Whether the asset(s) transferred constitute a substantial or key portion of similar assets for either the predecessor or successor;

(c) Whether the assets were transferred directly and not through an independent third party;

(d) Whether multiple types of assets (e.g., employees, real property, equipment, goodwill) transferred;

(e) Whether a significant number or significant group of employees transferred between employers;

(f) Whether the assets transferred at the same time or in a connected sequence, as opposed to several independent transfers;

(g) Whether the business name of the first employer continued or was used in some way by the second employer;

(h) Whether the second employer retained or attempted to retain customers of the first employer;

(i) Whether there was relative continuity and not a significant lapse in time between the operations of the first and second employers;

(j) Whether there was continuity of management between employers;

(k) Whether the employers shared one or more of the same or related owners;

(l) Whether documents, such as a contract or corporate minutes, show the sale or transfer of a business or a portion of a business; and

(m) Whether other factors indicate that a predecessor-successor relationship exists.

(9) **Exceptions.** A predecessor-successor relationship will not exist:

(a) For the purposes of chapter 50.24 RCW (payment of taxes), when the property is acquired through court proceedings, including bankruptcies, to enforce a lien, security interest, judgment, or repossession under a security agreement unless the court specifies otherwise;

(b) For the purposes of chapter 50.29 RCW (experience rating), when any four consecutive quarters, one of which includes the acquisition date, pass without reportable employment by the predecessor, successor, or a combination of both.

(10) **Burden of proof.** The department has the burden to

prove by a preponderance of the evidence that a business is the successor or partial successor to a predecessor business. However, if a business fails to respond to requests for information necessary to determine a predecessor-successor relationship, the department may meet its burden by applying RCW 50.12.080 to determine the necessary facts.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-010, filed 11/21/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 07-23-131, filed 11/21/07, effective 1/1/08)

WAC 192-350-070 What effect does a predecessor-successor relationship have on tax rates? (1) Under RCW 50.29.062(1), if the successor is an employer at the time of the transfer of a business, the successor's tax rate shall remain unchanged for the rest of the calendar year. Beginning on January 1 of the year after the transfer and until the successor qualifies for its own rate, the successor's tax rate for each rate year shall combine the successor's experience with the experience of the predecessor or the relevant portions of the partial predecessor.

(2)(a) Under RCW 50.29.062 (2)(b), if the successor is not an employer at the time of the transfer of a business and if the transfer occurs after January 1, 2005, the successor's tax rate for the rest of the calendar year shall be the same as the

predecessor employer at the time of the transfer. Any experience attributable to the predecessor shall be transferred to the successor.

(b) Under RCW 50.29.062 (2)(b)(ii), if there is a substantial continuity of ownership, control, or management by the successor, beginning on January 1 after the transfer, the successor's tax rate shall be based on a combination of the successor's experience and the transferred experience from the predecessor.

(c) Under RCW 50.29.062 (2)(b)(i), if there is not a substantial continuity of ownership, control, or management by the successor, beginning on January 1 after the transfer, the successor's tax rate shall be assigned under RCW 50.29.062 (2)(b)(i)(B). However, if the predecessor terminates business on December 31st of any year and the successor begins business on January 1st of the next year, the department will calculate tax rates as if the transfer occurred on January 1st. Therefore, the department will assign a tax rate to the predecessor for January 1st and that rate will transfer to the successor.

(3) If the successor simultaneously acquires businesses from two or more employers with different tax rates, the successor's tax rate shall be assigned under RCW 50.29.062 (2)(b)(iii).

(4) The tax rate on any payroll retained by a predecessor employer shall remain unchanged for the rest of the rate year in which the transfer occurs. Beginning on January 1 after the

transfer, the predecessor's tax rate shall be assigned under RCW 50.29.062 (3)(b).

(5) Changes in rate class for a predecessor or successor are effective only for the rate year the information was provided and for subsequent rate years.

(6) This section does not apply to a transfer of less than one percent of a business.

(7) This section does not apply if there is "SUTA dumping" under RCW 50.29.063.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-070, filed 11/21/07, effective 1/1/08.]

NEW SECTION

WAC 192-350-090 When does an employer quit or dispose of a business for purposes of successor liability? (RCW 50.24.210.)

For purposes of RCW 50.24.210, an employer is considered to have quit business or disposed of its business or stock of goods if it disposes of substantially all of its operating assets. An employer is also considered to have quit business or disposed of its business or stock of goods if it transfers operating assets and retains only assets that do not have substantial net value or that are lower in value than total unemployment taxes, penalties, and interest owed. If an employer quits business or disposes of its business or stock of goods and has more than one successor, all successors are jointly and severally liable for any unemployment taxes due unless the employer and all successors have notified the department in writing and the department has approved apportioning any unemployment tax liability between the successors.