

(1) "KNOWINGLY" MEANS HAVING ACTUAL KNOWLEDGE OR ACTING WITH DELIBERATE IGNORANCE OR RECKLESS DISREGARD FOR THE PROHIBITION INVOLVED.

(2) "VIOLATES OR ATTEMPTS TO VIOLATE" INCLUDES INTENT TO EVADE, MISREPRESENTATION, OR WILLFUL NONDISCLOSURE.

(3) "TRADE OR BUSINESS" INCLUDES THE EMPLOYER'S WORKFORCE.

(4) NOTWITHSTANDING § 1-101 OF THIS ARTICLE, "PERSON" MEANS, AS DEFINED IN § 7701(A)(1) OF THE INTERNAL REVENUE CODE OF 1986, AN INDIVIDUAL, TRUST, ESTATE, PARTNERSHIP, ASSOCIATION, COMPANY, OR CORPORATION.

~~(3) "TRADE OR BUSINESS" INCLUDES THE EMPLOYER'S WORKFORCE.~~

(B) IF, FOLLOWING A TRANSFER OF EXPERIENCE, THE SECRETARY DETERMINES THAT THE TRANSFER OF TRADE OR BUSINESS OCCURRED PRIMARILY OR SOLELY TO OBTAIN A REDUCED LIABILITY FOR CONTRIBUTIONS:

(1) THE EXPERIENCE RATING ACCOUNTS OF THE EMPLOYING UNITS INVOLVED SHALL BE COMBINED INTO A SINGLE ACCOUNT AND A SINGLE RATE ASSIGNED TO THE ACCOUNT; AND

(2) THE EMPLOYING UNITS SHALL BE SUBJECT TO THE PENALTIES SET FORTH IN THIS SECTION.

(C) IF, AN EMPLOYING UNIT KNOWINGLY VIOLATES OR ATTEMPTS TO VIOLATE ANY PROVISION OF THIS SUBTITLE RELATED TO DETERMINING THE ASSIGNMENT OF A CONTRIBUTION RATE, THE EMPLOYING UNIT SHALL BE SUBJECT TO THE FOLLOWING PENALTIES:

(1) THE EMPLOYING UNIT SHALL BE ASSIGNED THE HIGHEST RATE ASSIGNABLE UNDER THIS SUBTITLE FOR THE RATE YEAR DURING WHICH THE VIOLATION OR ATTEMPTED VIOLATION OCCURRED AND THE 3 RATE YEARS IMMEDIATELY FOLLOWING THIS RATE YEAR; OR

(2) IF THE EMPLOYING UNIT IS ALREADY ASSIGNED THE HIGHEST RATE FOR ANY YEAR, OR IF THE AMOUNT OF INCREASE IN THE EMPLOYING UNIT'S RATE WOULD BE LESS THAN 2% FOR THAT YEAR, THEN A PENALTY RATE OF CONTRIBUTIONS OF 2% OF TAXABLE WAGES SHALL BE IMPOSED FOR THAT YEAR.

(D) IF A PERSON, WHO IS NOT AN EMPLOYING UNIT, VIOLATES, ATTEMPTS TO VIOLATE, OR KNOWINGLY ADVISES AN EMPLOYING UNIT IN A MANNER THAT RESULTS IN A VIOLATION OF THIS SUBTITLE SHALL BE SUBJECT TO A CIVIL MONEY PENALTY OF NOT MORE THAN \$5,000.

(E) THE SECRETARY SHALL ESTABLISH PROCEDURES TO IDENTIFY THE TRANSFER OR ACQUISITION OF A TRADE OR BUSINESS FOR PURPOSES OF THIS SECTION AND § 8-613 OF THIS SUBTITLE.