

CHAPTER 815. UNEMPLOYMENT INSURANCE

ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

ON **APRIL 5, 2016**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated date of publication in the *Texas Register*: April 22, 2016

The rules will take effect: April 25, 2016

The Texas Workforce Commission (Commission) adopts amendments to the following section of Chapter 815, relating to Unemployment Insurance, *without* changes, as published in the December 4, 2015, issue of the Texas Register (40 TexReg 8742):

Subchapter C. Tax Provisions, §815.111

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of amending Subchapter C, Chapter 815, Unemployment Insurance rules, is to facilitate implementation of [House Bill \(HB 1251\)](#), 84th Texas Legislature, Regular Session (2015), relating to the joint application following certain partial transfers of compensation experience.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER C. TAX PROVISIONS

The Commission proposes the following amendments to Subchapter C:

§815.111. Partial Transfer of Compensation Experience

Section 815.111(b) is amended to clarify that with regard to mandatory partial transfers of compensation experience required under the Texas Unemployment Compensation Act (the Act) §204.083, the successor and predecessor employing units may jointly file with the Agency information necessary to establish a contribution rate pursuant to §204.085 of the Act. The section is further amended to clarify that for acquisitions that occurred prior to September 1, 2015, the effective date of HB 1251, the deadline for submitting the information remains one year following the acquisition. For all other acquisitions, the Agency shall use the deadlines stipulated in §204.085(a-1) of the Act.

No comments were received on the proposed rules.

The Agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the Agency's legal authority to adopt.

The rule is adopted under Texas Labor Code §301.0015, which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The adopted rule affects Texas Labor Code, Title 4.

CHAPTER 815. UNEMPLOYMENT INSURANCE

SUBCHAPTER C. TAX PROVISIONS

§815.111. Partial Transfer of Compensation Experience.

(a) Voluntary Partial Transfer of Compensation Experience

- (1) An application for transfer of compensation experience pursuant to §204.084 of the Act shall be filed with the Agency in one of the following formats:
 - (A) forms printed by the Agency;
 - (B) magnetic or electronic media in a format prescribed by this Agency; or
 - (C) any other manner approved and prescribed by the Agency in writing.
- (2) The application shall:
 - (A) contain all facts and information and documents, including waiver, necessary to make a determination under §204.084 of the Act and in accordance with the requirements of that section; and
 - (B) be accurate, complete, and signed by an authorized representative. Incomplete applications will be returned unprocessed.
- (3) An application under this section must be filed with the Agency within one year of the date the partial transfer is completed.
- (4) To satisfy the identifiable and segregable requirements of §204.084(c)(3):
 - (A) the applicants shall show that the successor employer acquired a distinct and separable part of the organization, trade, or business that is capable of operating independently and separately from the predecessor employer; and
 - (B) the wages attributable to the acquired part of the organization, trade, or business shall be separate and distinct from other wages of the predecessor employer and shall be solely attributable to services provided on behalf of the acquired part of the organization, trade, or business.

(b) Mandatory Partial Transfer of Compensation Experience

- (1) When a partial acquisition occurs that requires transfer of compensation experience pursuant to §204.083, the employing units involved may file with the Agency, in one of the following formats, the information necessary to determine if the conditions of §204.085(a) are met:

- (A) Forms printed by the Agency;
 - (B) Magnetic or electronic media in a format prescribed by the Agency; or
 - (C) Any other manner approved and prescribed by the Agency in writing.
- (2) The submission shall:
- (A) contain all facts, information, and documents necessary to make a determination under, and in accordance with, the requirements of §204.085;
 - (B) be accurate, complete, and signed by an authorized representative; and
 - (C) be filed with the Agency within one year of the date the partial transfer was completed, if the partial transfer was completed prior to September 1, 2015. Otherwise, the submission is due pursuant to deadlines established in §204.085(a-1).
- (3) To satisfy the conditions of §204.085(a):
- (A) the successor employer shall have acquired a distinct and separable part of the organization, trade, or business that is capable of operating independently and separately from the predecessor employer; and
 - (B) the wages attributable to the acquired part of the organization, trade, or business shall be separate and distinct from other wages of the predecessor employer and shall be solely attributable to services provided on behalf of the acquired part of the organization, trade, or business.