WAC 192-350-100 What is "SUTA dumping" and what are the consequences if a significant purpose for the transfer of a business is SUTA dumping? (1) Congress enacted the "SUTA Dumping Act of 2004" to establish nationwide minimum standards for curbing unlawful manipulation of unemployment taxes by employers. "SUTA" stands for state unemployment tax acts. Federal law describes "SUTA dumping" as the practice by some employers and financial advisors of manipulating state unemployment experience tax rating systems so that employers pay lower state unemployment insurance taxes than their unemployment experience would otherwise allow. Most frequently, it involves merger, acquisition, or restructuring schemes, especially those that shift workforce or payroll.

To comply with federal requirements, Washington enacted RCW 50.29.063, which imposes higher unemployment insurance tax rates on employers if a significant purpose of the transfer of a business was to obtain a lower tax rate. The law also imposes penalties if the intent was to knowingly evade successorship tax provisions or to knowingly promote the evasion of successorship tax provisions.

(2) Examples of SUTA dumping include an employer with a high tax rate because of its experience that:

(a) Dissolves the business in its present structure and reorganizes into a new entity to obtain a lower tax rate;

(b) Buys a smaller business with a low rate, then transfers employees to the smaller business to obtain the low rate; or

(c) Reorganizes and intentionally gives a false description of its business to obtain a lower rate based on a lower industry average.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. WSR 07-23-131, § 192-350-100, filed 11/21/07, effective 1/1/08.]