

Dateline:

# Labor & Workforce Development

A quarterly publication for employers from the Tennessee Department of Labor & Workforce Development  
**September 2005**

## December 31, 2005, deadline to avoid the 2% SUTA dumping penalty and possible prosecution

This is a reminder that employers who have manipulated the unemployment insurance system to avoid paying at their true unemployment premium rate, as well as the accounting firms and other financial advisors who have advised them to do so, have until December 31 of this year to bring their accounts into compliance with Tennessee's 2005 SUTA Dumping Legislation and the Federal SUTA Dumping Prevention Act of 2004 (see **Dateline, June 2005**).

The new law's provisions take effect January 1, 2006, and will be enforced against all employers and individuals found to be involved in the practice of SUTA dumping. This includes past violations that affect current premium rates.

SUTA dumping schemes to avoid true premium rates include, but are not limited to, moving employees to a new or purchased shell company with a lower rate, establishing a new account to get a lower new employer rate, "parking payroll" in another business's account, acquiring a partial reserve account transfer for the purpose of reducing the average taxable wages, and avoiding a transfer of experience when there is common ownership, management, or control.

SUTA dumping also includes employee leasing companies and Professional Employer Organizations (PEOs) shifting clients' payrolls to an account number affiliated with a related PEO with a lower premium rate or shifting clients from an employee

leasing company or a PEO and then shifting them back again three years later to bring them back under the original employee leasing company or PEO at the new employer rate. If you have engaged in these or similar practices, you should contact the Department immediately.

Effective January 1, 2006, SUTA dumping will be considered a Class A misdemeanor with a maximum sentence of 11 months, 29 days imprisonment and a maximum fine of \$2,500.

Both the successor employer and the predecessor employer will be subject to a 2% penalty rate levied on the first \$7,000 paid to each employee during a calendar year. This penalty will apply to each quarter starting with the quarter in which the SUTA dumping infraction first took place and continue through the three premium rate years following the first July 1 after the date on which the department discovered the infraction.

Any person who advises others to violate the law, or who violates the law but is not an employer against whom the 2% penalty rate can be levied, is subject to a Class A misdemeanor charge plus a civil monetary penalty of up to \$50,000.

For more information, to make arrangements to bring your account into compliance, to inquire about possible SUTA dumping activity, or to get a copy of the 2005 Tennessee SUTA Dumping Statute, call

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## Premium Table 5 takes effect

Tennessee employers: Take a close look at the Notice of Premium Rate you recently received and you will see that Premium Rate Table 5 took effect on July 1, 2005. That's a jump of two tables from Premium Table 3, which was in effect for the first half of this year. If you are an experience-rated employer with a positive reserve (meaning the premiums you've paid into the Unemployment Insurance system exceed the benefits charged to your account) this means a lower Premium Rate Table for the remainder of 2005.

Premium Rate Tables are determined every six months based on the level of Tennessee's Unemployment Insurance Trust Fund each June 30 and December 31. On June 30, the Fund's balance was in excess of \$675 million, which by law "triggered on" Table 5.

## TNPAWS – Why wait? Use it now!

The Tennessee Premium and Wage Reporting System (TNPAWS) is an Internet-based method of filing the quarterly Premium and Wage Report. All employers eligible to use TNPAWS have the TNPAWS URL (<http://tnpaws.tnui.net>) and Access Code printed to the right of line 1 (Total Wages) on the Premium Report.

New users must first register a User Name and Password. The employer account number and

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## SUTA dumping (Cont.)

(615) 741-2346 or call your Employer Accounts Office listed in this *Dateline*.

## TNPAWS (Cont.)

access code are needed to complete the registration process. Once users have successfully logged on, they are given the option of filing a "No Payroll" Report or a Premium and Wage Report. A "No Payroll" report can be completed in a matter of minutes and without incurring postage charges. If a Premium and Wage Report is being filed, employers enter each employee's name, social security number, and gross wages for the quarter. TNPAWS saves the employee information so you don't have to enter the data again. TNPAWS will calculate total wages, excess wages, and taxable wages before determining the premium amount due.

In order for the excess wage calculation to be accurate, new users should input third quarter wages in the "Current Wages" column and the sum of first and second quarter wages in the "Prior Wages" column. Reimbursing employers do not calculate Excess Wages and proceed directly to the Preliminary Premium and Wage Report screen. After ensuring the data are accurate, the employer submits the report. A confirmation number is assigned to each completed report to notify users that the information was successfully transmitted. If premiums are due, a payment coupon is generated. Simply return the payment coupon with your check to complete the filing process, or pay the premiums due by ACH Credit.

If you have questions about the operation of TNPAWS, please contact us at (615)741-2346.

## Employer handbooks now in stock

New Employer Handbooks with the 2005 Legislation Addendum are now available. If you would like a copy, call (615) 741-2815 or contact your Employer Accounts Office listed in this *Dateline*.

## GTL Premiums Not Reportable Wages

Recently questions have been raised as to whether there are any circumstances in which premiums paid by employers for Group Term Life (GTL) coverage on employees might constitute reportable wages for Tennessee Unemployment Insurance purposes.

These amounts are exempt for Federal Unemployment Tax (FUTA) reporting purposes, and there is likewise no provision in the Tennessee Employment Security Law that calls for the inclusion of these amounts as wages for Unemployment Insurance purposes. Accordingly, premiums paid by employers for GTL coverage on their employees are not reportable wages in Tennessee.

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