

Title 35, Part III, Subpart 11,

Chapter 23 – Transfer of Assessments

100 Definitions

101 For purposes of this chapter, the term "employer" means a person doing business in, or deriving income from sources within the state, who has control of the payment of wages to an individual for services performed, or a person who is the officer or agent of the person having control of the payment of wages. "Employer" is further defined under Title 35, Part III, Subpart 11, Chapter 05 of the Miss. Admin. Code.

102 The term "person" means and includes individuals, fiduciaries, corporations, partnerships, associations, the state and its political subdivisions, and the federal government, its agencies and instrumentalities.

103 (Reserved)

200 General

201 Persons owning stock of ten percent (10%) or more of a total corporation or ten percent (10%) interest or more in a limited liability company (LLC) with thirty-five (35) or less owners, and are exercising responsibility for fiscal management at the time that the tax was withheld or required to be withheld are liable for the taxes due.

202 Exercising responsibility for fiscal management includes, but is not limited to, the following activities:

1. A significant involvement in the day-to-day management of the business;
2. the authority to sign business checks or tax returns;
3. the authority to direct payment of business funds to creditors;
4. the authority to pledge business assets as collateral for loans, advances, or lines of credit for the business;
5. the authority to bind the business to contracts;;
6. the authority to hire or fire employees who are authorized to perform any act described in three (3) through five (5) of this paragraph;
7. acting as a high ranking officer of the corporation or LLC, including, but not limited to, President, Vice-President, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chairman, Vice-Chairman, Director, Controller, Secretary and/or Treasurer;
8. ownership of more than fifty percent (50%) interest in the corporation or LLC; or
9. participating in decisions regarding the purchase or sale of the business or the authority to participate in decisions regarding the purchase or sale of the business.

203 The Department must transfer the assessment from the corporation or LLC to the employer or person exercising fiscal management within thirty-six (36) months of when the liability of the corporation or LLC becomes final. A notice will be issued to the transferee, and once received the transferee will have sixty (60) days in which to appeal the transfer of

assessment. The transfer is appealable on the issue of the ownership interest and fiscal management requirements only.

204 Bankruptcy of the transferee does not prevent the Department from transferring a liability.

205 (Reserved)

