

## UPDATE: Michigan Aggressively Enforcing New SUTA Dumping Laws

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As we informed you in a prior Employer Alert, Michigan enacted four new laws, effective on July 1, 2005, that prohibit "state unemployment tax act dumping." Employers engage in SUTA dumping when they transfer portions of their payroll (i.e., employees) to subsidiaries, shell companies, or other employers with lower unemployment tax rates.

Recent developments indicate that Michigan is taking an aggressive approach to enforcing the new SUTA dumping laws. Although a newly-formed SUTA dumping team - Unemployment Insurance Agency employees trained to identify instances of dumping - has only been in operation for a month, the Michigan Unemployment Insurance Agency has already announced the recovery of approximately \$55,000 in unpaid taxes, penalties and interest from 3 employers: a Detroit landscaping company, a Canadian IT company with Michigan operations, and an agricultural business in western Michigan. The Michigan Unemployment Insurance Agency alleged that all three employers engaged in SUTA dumping by failing to pay their full share of unemployment taxes.

The Michigan Unemployment Insurance Agency announced that the Detroit firm, which agreed to repay approximately \$10,000, set up two unemployment insurance accounts with the Unemployment Insurance Agency and transferred employees from one account to another, depending on which account had the lower tax rate at the time. The Canadian business, which agreed to pay over \$28,500, established a new unemployment account and transferred its employees to that account. The western Michigan business agreed to repay approximately \$17,000 after it created a new account with a lower tax rate and transferred some of its employees to the new account.

The Director of Michigan's Unemployment Insurance Agency indicated that the Agency identified these three employers with the help of tips. The Agency employs field auditors and fraud investigators trained to identify possible cases of SUTA dumping. In the near future, the Agency will also begin using specially designed computer software to identify patterns of employer behavior that demonstrate unemployment tax avoidance. As a result of Michigan's aggressive stance toward SUTA dumping, we urge employers to seek legal advice before engaging in any action that could be viewed as having the purpose or result of avoiding unemployment taxes.

If you have any questions about this or any other employment practices, feel free to contact the Labor and Employment Group; James B. Thelen at (517) 483-4901, email: [thelen@millercanfield.com](mailto:thelen@millercanfield.com); or Richard W. Warren at (313) 496-7632, email: [warren@millercanfield.com](mailto:warren@millercanfield.com). This message is for general information only and should not be used as a basis for specific action without obtaining further legal advice.