*WCB Policy 35.20.15, Associated Employers*

# Administrative Guidelines

> *Please include the Board-Approved policy when referencing guidelines as they are intended to provide clarity and direction to ensure consistent administrative application of the policy.*

These guidelines outline when an employers' relationships with related companies will impact their current and future assessment rates. The intentions of this policy and its guidelines are to:

- limit the ability of employers to avoid negative claims cost experience and assessment rates by changing their corporate structure; and,
- allow employers to combine the claims cost experience of several related businesses to establish one assessment rate.

As the policy outlines, both the Business Ownership and Business Relationship Criteria must be met in order for employers to be considered “associated”. Once an association has been established, all the employers within the association will be treated as if they are one employer for the purposes of establishing industry classifications (see WCB Policy 35.20.10, “Placement of Employers into Industry Classifications”) and setting assessment rates.

*Determining whether employers meet the “Business Ownership Criterion”:*

- Business ownership will be determined by comparing the legal entity of each business. This can be established through the Companies Office of the Province of Manitoba, or through the employer’s own written records/agreements:
    - Sole proprietors are the only owners of their businesses.
    - Partnerships’ are assumed to be allocated on an equal basis between all partners unless a formal partnership agreement exists that specifies different ownership percentages.
    - Corporate ownership is based on the allocation of common shares. With publicly-traded corporations, the voting shareholders are considered the owners.
- When “members of the same family” (as defined subsection 1(1) of the Workers Compensation Act), each or collectively own 50% or more of two or more businesses, the employers will meet the business ownership criterion. This applies to "in-law" family relationships.

Examples:

- If a husband and wife collectively together own 50% of Employer A and collectively own 50% of Employer B, then Employer A and Employer B meet the Business Ownership criteria.
- If a husband owns 100% of Employer A and his wife owns 100% of Employer B, then Employer A and Employer B meet the Business Ownership criteria.

*Determining whether firms meet the "Business Relationship Criterion":*

- Ancillary businesses have some mutual dependencies on one other. These dependencies can include staff, revenue, services, supplies, equipment, and facilities, among others.
- To establish whether they are ancillary, the following questions should be answered:
    - What are the firms' lines of business?
        - What are they "selling"?
        - What service are they providing?
        - What is their major source(s) of revenue?
        - What do their staff spend most of their time doing?
    - What is the extent of interaction between the firms?
        - Is there exchange of money?
        - Is there exchange of staff?
        - Are they on the same or near-by premises?
        - Do they share equipment?
        - Is one providing a value-added product or service to the other?
        - Is each business sustainable without the relationship?

*Meeting Both Criteria:*

- If the employers meet both the criteria an association is established, evaluate whether their industry classifications should be the same, based on the collective activities of all the employers within the association.
- If the employers do or will share the same industry classification(s):
    - If all the associated employers have payroll less than $750,000, their claims cost experience and rates of assessment for the same industry classifications will be tied.

*Individual Experience Rating for Associated Employers*

- Associated employers who each have payroll of $750,000 or greater can have their assessment rates based on their own claim cost experience. They will be assigned an industry classification based on the combined business activities of the association and assessment rates for the same industry classification will be tied, unless all the employers agree to be individually experience-rated.
- $750,000 represents the payroll threshold for medium size employers (See WCB Policy 35.05.05 Rate Setting for Class E Employers).
  - Employers must have an average actual payroll of $750,000 or greater over a three-year period to qualify for individual experience-rating.
  - Employers will lose individual experienced-rating when their average actual payroll is less than $750,000 over a three year period.
- If one/some of the employers in an association have payroll less than $750,000, and other employers in that association exceed that threshold in payroll, the employers below the threshold will need be tied to one of the employers above the threshold. The employers that should be associated are those that have the closest business relationship.

- A group of employers that meet the Business Ownership criteria will be considered associated when one of the employers in that group performs functions (e.g., administrative) for all of the other employers in that group. The functions performed by one common employer in the group satisfy the Business Relationship criteria, so whether there is a business relationship between the other firms is not relevant.

*Meeting Only One of the Criteria:*

- As outlined in the Policy, employers must meet both the Business Ownership and Business Relationship criteria to be considered associated. However, employers that are not related through ownership, but have an ancillary business relationship may be classified similarly. (Please refer to WCB 35.20.10, Placement of Employers into Industry Classifications and its administrative guidelines.)

*Meeting Both Criteria in More Than One Associated Group:*

- There may be situations where an employer's business ownership qualifies it for association with two different associated groups. When this occurs, the group with more total assessable payroll will be considered the firm’s primary association.
  - For example, if the two partners of Employer A each have a spouse with businesses who they have ancillary business relationships with (Employer B and C). Employer A will only be associated and rates tied with the employer (B or C) with the highest assessable payroll.