

Section	Policy
30	35.20.15

Section Title: Finance, Assessments and Administration - *Assessments*
Subject: Associated Employers
Effective Date: January 1, 2023

A. POLICY PURPOSE

The purpose of this policy is to establish the criteria for determining when two or more employers will be associated and to clarify how being associated will influence Industry Classification and their assessment rates. The Workers Compensation Board (WCB) will associate two or more employers when their businesses have shared ownership and are ancillary to each other. Businesses are ancillary to each other when their activities are essential to and/or dependent on another.

Associated employers are treated essentially as one employer for the purpose of assigning Industry Classifications and setting assessment rates. The WCB will assign Industry Classifications and set assessment rates for associated employers without regard to the employers' legal business structures.

Appendix A to this policy is a glossary of commonly used terms.

B. POLICY

When association is established among employers, these employers will be assigned an Industry Classification based on the combined business activities of the association. They will receive one assessment rate for each Industry Classification that is common among the association.

CRITERIA FOR ASSOCIATION

The WCB will apply two criteria to determine if one or more employers are associated as follows:

1. Business Ownership

Business ownership is established when:

- one employer has at least 50% ownership in the business of another employer; or
- one or more persons who are members of the same family, as defined under subsection 1(1) of *The Workers Compensation Act*, have 50% or more ownership in the business of another employer.

2. Business Relationship

Business relationship takes into consideration factors such as:

- whether the employers share the same premises, staff, or equipment;
- whether the sole purpose of one business is to contribute supplies to or derive revenue from another;
- whether the employers produce a common end-product or service.

When the criteria for both ownership and relationship are met, the employers will be considered associated.

Individual Experience Rating for Associated Employers

Associated employers who each have payroll of \$750,000 or greater will be given the option to have their assessment rates set based on their own Claim Costs Experience. The payroll level for each employer is determined by calculating average actual payroll over a three-year period. However, the associated employers will be assigned an Industry Classification based on the combined business activities of the association.

On a periodic basis, the WCB will adjust the minimum payroll threshold listed above to reflect changes in the provincial industrial average wage as published by Statistics Canada.

This payroll threshold is linked to the payroll levels used to determine an employer's size (small, medium or large) as defined in policy 31.05.05, *Rate-Setting Model for Class E Employers*.

C. REFERENCES

The Workers Compensation Act, sections 1(1), 60(2)(i), 79, 80(3), and 81(3)

WCB Policy 31.05.05, *Rate-Setting Model for Class E Employers*

History:

1. WCB Policy 35.20.10, *Classification of an Employer into Sub-groups*, contained policy statements on the association of employers. This material was removed from that policy, modified and made a separate policy by Board Order 23/09 on September 29, 2009, effective January 1, 2010.
2. Minor formatting and wording changes were made to the policy and the reference section was updated, June 27, 2012.
3. Policy amended by Board Order 17/17 on June 28, 2017, effective January 1, 2018. Policy revisions include updated terminology to reflect the new Policy 31.05.05, *Rate-Setting Model for Class E Employers* and increasing the payroll threshold for an associated employer to have its assessment rate based on its own claim costs experience versus that of all associated employers.
4. Appendix A in the policy updated to clarify changes that came from the new Rate Setting Model.
5. A reference to Policy 31.05.15 was updated to reflect the proper policy name on October 19, 2018.
6. Minor formatting changes made to the policy, January 2021.
7. In September 2022, policy revisions respond to a change in terminology that was introduced by amendments to the Act by *The Minor Amendments and Corrections Act (MACA) 2022*. The term "self-insured employer" was replaced with "individually assessed employer". The policy was changed to reflect the new title of policy 31.05.15, *Cost Transfer - Self Insured*, which is now the *Cost Transfer - Individually Assessed Employers* policy. The name of policy 31.05.10 was also changed from *Cost Relief/Cost Transfer - Class E* to *Cost Relief/Cost Transfer - Class E Employers*.
8. Policies 31.05.10, *Cost Relief/Cost Transfer - Class E Employers*, and 31.05.15, *Cost Transfer - Individually Assessed Employers*, were revised by Board Order No. 41/22 on December 15, 2022 effective for all decisions on or after January 1, 2023. As a result, consequential changes were made to Appendix A - Glossary of Terms to this policy.

Appendix A – Glossary of Terms

Class E Employers: Those employers who pay for the costs of the workers compensation system based on their payroll and Claim Costs Experience. These employers are subject to the collective liability provisions of the *Act*.

Claim Costs Experience (Class E Employer): For the applicable Experience Period, the Class E Employer's Claim Costs Experience includes:

- Claim costs assigned to the individual employer;
- Proxy costs which may be assigned as a result of an accepted fatality claim; and
- Claim costs which are transferred to the Class E Employer under policies 31.05.10, *Cost Relief/Cost Transfer - Class E Employers*, 31.05.15, *Cost Transfer - Individually Assessed Employers*, and 31.05.20, *Transfer of Assessment Rates and Claim Costs Experience on Change of Ownership*, or the *Interjurisdictional Agreement on Workers' Compensation (IJA)*.

Costs Excluded from Rate Setting (Class E Employer): The Costs Excluded from Rate Setting for a Class E Employer are as follows:

- the costs incurred for claims with accident years outside the experience period;
- the costs transferred to Interim Administrative Accounts for interjurisdictional claims, and claims involving a third party or a work-related motor vehicle accident;
- ineligible (disallowed) claims;
- translation or interpretation services;
- courier or mail delivery expenses;
- compliance investigative (surveillance) costs;
- WCB medical advisor fees;
- group life insurance benefits;
- medical review panel expenses;
- external legal counsel fees or expenses;
- payment for full wages and benefits paid for the day of the accident or the repayment of unauthorized deductions or contributions; and
- claim costs relieved or transferred as provided for in policies 31.05.10, *Cost Relief/Cost Transfer - Class E Employers*, 35.40.50, *Overpayment of Benefits*, and 44.20.50.20, *Noise-Induced Hearing Loss*, or the *Interjurisdictional Agreement on Workers' Compensation (IJA)*.

Experience Period: The time period and claim accident years the WCB uses to determine a Class E Employer's Rate-Setting Claim Costs. Since 2020, the Experience Period has been a rolling, three-year period commencing four years before the current year and ending two years before the current year. For example, to calculate an employer's assessment rate for 2024, the WCB would include claim costs for all worker injury claims made in 2020, 2021, and 2022 where the employer was the Accident Employer

Industry Classification: All employers are classified into an Industry Classification based on the nature of the industry in which the employer operates. This creates a grouping of like employers.

Rate-Setting Claim Costs (Class E Employer): The Claim Costs Experience for claims in the Experience Period less the Costs Excluded from Rate Setting.