

**Operational
Policy**

Section
Employer Accounts

Subject
Determining Insurable Earnings

Policy

The WSIB considers insurable earnings to include:

- the amounts that are usually reported on a worker's earnings statement, and
 - any income reported in box 14 of the T4 slip as gross earnings
- when determining the amount that an employer is liable to contribute to the insurance fund.

See Appendix I for a list of items considered insurable and Appendix II for a list of items considered non-insurable for premium calculation purposes.

With the exception of those items listed as non-insurable in Appendix II, all other earnings are considered insurable for WSIB purposes. Examples of the most common insurable earnings are listed in Appendix I, which is a general list and is not exhaustive.

Purpose

The purpose of this policy is to provide guidelines on determining the insurable earnings of workers, and contractors covered as workers, through their principal's WSIB account.

Guidelines

For information on insurable earnings in the construction industry, see 14-02-18, Insurable Earnings - Construction.

Definitions

Principal - A person or business entity awarding or letting a contract to a contractor or sub-contractor.

Contractor and sub-contractor - A person or business entity providing contractual services to a principal. The business relationship between a principal and a contractor includes the relationship between a contractor (the principal in this relationship) and a sub-contractor (the contractor in this relationship). Therefore, the term "contractor" includes sub-contractor in this policy.

What are earnings?

The term "earnings" relates to the individual worker; whereas, the term "payroll" is the total earnings of all workers reported by the employer. Earnings are the total employment earnings of a worker from any source, which are capable of being estimated in terms of money.

There are two kinds of earnings, insurable and non-insurable. Only insurable earnings, subject to the maximum insurable earnings set each year, are included in the premium calculation.

Insurable earnings for premium calculation purposes are not always the same as average earnings for benefit purposes, see 18-02-02, Determining Short-Term Average Earnings.

Section 25(1) employer contributions for employment benefits on behalf of injured workers are not considered earnings, and are not included in the calculation of premiums.

In industries other than construction, sole proprietors, independent operators, partners, and executive officers of corporations, as accepted by the WSIB, are not considered workers, are not insured by the WSIB, and their earnings are not included in insurable earnings unless they have voluntarily elected WSIB optional insurance. See 12-03-02, Optional Insurance, and 12-03-03, Who Can Obtain Optional Insurance?.

Unless otherwise stated, any subsequent reference to contractors refers to individuals in industries other than construction.

What are insurable earnings?

Insurable earnings include earnings derived from methods of payment such as:

- pay by hourly rate
- piecework
- salary
- commission
- vacation pay
- room and board
- bonuses, and
- the value of most other allowances and taxable benefits.

Insurable earnings include amounts reported on an earnings statement, or wage slip before any deductions are made for income tax, Employment Insurance (EI), Canada Pension Plan (CPP), health care plans, loan payments, union dues.

For a non-exhaustive list of insurable earnings see Appendix I.

Determining the status of contractors

If a contractor does not employ workers and is:

- not registered as an employer with the WSIB
 - not an independent operator with a WSIB independent operator identification number for the contract in question, and
 - not considered a worker by the principal to whom he or she has contracted,
- then the contractor and the principal are required to complete the appropriate industry-specific, or general questionnaire used by the WSIB to determine whether the person is a worker or an independent operator for WSIB purposes. For the policy about determining a

person's status as a worker or an independent operator, see 12-02-01, Workers and Independent Operators.

Contractors ruled independent operators by the WSIB can apply for WSIB optional insurance. For further details, see 12-03-02, Optional Insurance.

Principal responsible to report earnings

Contractors considered workers

When the principal or the WSIB, following a worker's status determination, considers a contractor, who works alone, to be a worker, the principal who purchases the contracted service must report and pay premiums on the worker's earnings based on the labour portion of the contract value.

The contractor's insurable earnings (and the premiums based on those earnings) are subject to retroactive add-back to the principal's account according to 14-02-06, Employer Premium Adjustments.

Retroactive liability for an unregistered contractor under s.141(2)

If a contractor who is not registered as an employer with the WSIB for any portion of the period under contract with the principal is found to have employed workers, then the principal is liable to pay the premiums owed retroactively for the insurable labour portion of the contract between the principal and the contractor. This portion of the insurable earnings is retroactively added-back to the principal's account under s.141(1),(2), and (4).

The extent of the add-back of earnings to the principal is determined by 14-02-06, Employer Premium Adjustments.

Determining the labour portion of the contract

Adequate records

When business records, contractor's invoices, or written contracts accurately identify the actual labour portion of the contract by identifying the amounts allocated and billed for labour, and for materials, equipment and/or installation supplies, the labour portion is treated as the contractor's gross insurable earnings.

Adequate records are defined as those records where the amounts allocated and paid for labour and building supplies and/or installation supplies are verifiable as accurate upon audit by the WSIB.

Other insurable earnings calculations

For information about insurable earnings:

- in the construction industry, see 14-02-18, Insurable Earnings - Construction
- in the logging industry, see 14-02-10, Insurable Earnings - Logging

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- in the trucking, courier, and taxi industries, see 14-02-09, Insurable Earnings - Drivers in the Transportation Industry
- for municipal volunteer fire brigades and for volunteer ambulance brigades, see 14-02-11, Insurable Earnings - Volunteer Forces, and
- for training participants, see 12-04-05, Coverage for Unpaid Trainees.

To calculate the portion of insurable earnings and the resulting premiums payable to the Ontario WSIB when:

- workers of an Ontario-based employer work temporarily in another Canadian jurisdiction, or
- workers from another Canadian jurisdiction work temporarily in Ontario, see 14-02-12, Insurable Earnings - Interjurisdictional Agreement.

Landscaping contracts

For the purpose of this policy, the table below applies in two situations.

Contractor considered worker

If **all** the following conditions are met:

- there is evidence that major materials or heavy equipment was supplied
- there are inadequate business records, contractor's invoices, or written contracts to determine the actual labour portion of the contract, and
- the WSIB has determined the contractor to be a worker,

then the labour portion of the contract between the contractor and the principal is determined by Column A of the table.

Unregistered contractor under s.141(2)

The table is also used in cases where the WSIB finds that an unregistered contractor has employed workers. In these cases, if there is evidence that the contractor supplied major materials or heavy equipment, then the WSIB uses Column B to determine the labour portion of the contract between the contractor and the principal.

If there is no evidence that the contractor supplied major materials or heavy equipment, then the WSIB uses Column C.

Labour portion of contract

Trade	Column A Labour and material* No help	Column B Labour and help** With material*	Column C Labour and help** No material*
Landscaping	33 1/3%	25%	60%

Notes for the table

1. "Material" means major materials or heavy equipment.

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2. The two “and help” columns (B and C) can only be used by the WSIB.

Major materials means major structural, mechanical and electrical components, such as:

- asphalt
- bricks, blocks
- concrete and cement
- electrical wiring, boxes and supplies
- fill and sand
- gravel
- insulation and vapour barriers
- lumber and steel
- pipes, and
- plumbing fixtures and equipment.

Exceptions

Major materials do not include items such as:

- installation supplies (e.g. adhesive, caulking, fasteners, nails, screws), or
- small wood and metal items.

Heavy equipment means any large item of capital equipment used in the landscaping industry, such as:

- backhoe
- bobcat
- bulldozer
- cement mixer (truck or pumper)
- dump truck
- front-end loader
- gas powered tamper
- grader, or other excavating equipment, and
- jackhammer, excluding portable.

What are non-insurable earnings?

Some earnings are not included for the calculation of premiums. The common are:

- maternity, paternity or parental benefits paid in addition to EI benefits
- certain earnings of workers of an Ontario-based employer working temporarily out of Ontario, which were also reported to other Canadian boards
- severance pay as required under the *Employment Standards Act*, and
- retiring allowances.

See Appendix II for a list of items considered non-insurable, for premium calculation purposes.

Maximum amount of insurable earnings

The WSIA sets annual maximum average earnings as the basis for the calculation of benefits. In addition, the WSIA provides that the insurable earnings of an individual worker for the purpose of premium calculation be limited to an annual maximum amount of insurable earnings.

The annual maximum for insurable earnings set by the WSIB goes into effect January 1st of each year.

Excess earnings

Excess earnings for an individual worker are any earnings that are above the annual maximum insurable earnings amount. Excess earnings are not insurable and premiums are not paid on them. Employers pay premiums on gross insurable earnings until the earnings of the worker reaches the annual maximum insurable earnings amount.

Example

A worker has gross insurable earnings of \$68,000 for the calendar year. The WSIB maximum amount of insurable earnings for that year was \$65,600. The employer is, therefore, responsible to pay premiums on the worker's insurable earnings until the annual maximum of \$65,600 has been reached. The difference of \$2,400 is considered excess earnings and is not subject to premiums.

In years where the maximum insurable earnings and maximum average earnings are different:

- the reportable insurable earnings, and associated premium calculation, are subject to the maximum insurable earnings, not the maximum average earnings, and
- wage loss benefit calculations are subject to the maximum average earnings.

Multiple classification codes

General

The following guidelines apply when the employer has more than one classification code, and the employer is determining insurable earnings for calculating premiums for:

- monthly, quarterly, or annual premium remittances, see 14-03-09, Premium Remittance, and
- the year-end reconciliation, see 14-03-12, Reconciliation.

Employers with an account having more than one business activity in more than one classification code are required to allocate insurable earnings amounts to each classification code.

Employers must have segregated wage records in order to have multiple classification codes. The general rules for assigning separate classification codes for multiple business activities

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are provided in 14-01-01, The Classification Structure. If employers have been assigned multiple classification codes and do not have segregated payrolls/wage records, they should contact the WSIB.

An employer with segregated payrolls may have workers dedicated exclusively to each classification code, or workers may perform business activities in more than one classification code. As long as segregated wage records are maintained for each worker, insurable earnings can be assigned to multiple classification codes, see 14-01-01, The Classification Structure.

Separate classification for construction

The separate classification codes for non-exempt partners or executive officers in construction are distinct from other construction classification codes, and are to be used **only** for reporting the insurable earnings of non-exempt partners or executive officers who are eligible.

For the purpose of classifying non-exempt partners or executive officers in construction, construction work refers to any manual work of a skilled or unskilled nature, the operation of equipment or machinery, or the direct on-site supervision of workers. Periodic on-site visits are permitted, provided that the partner or executive officer is not performing construction work on the site.

For more information about coverage in construction, see 12-01-06, Expanded Compulsory Coverage in Construction.

Direct earnings

Direct earnings are insurable earnings that can be assigned to a classification code (based on the business activity performed) directly from the segregated records of the worker's wages. The segregated wage records must clearly show the earnings based on labour time spent in each business activity. For employers whose accounts have only one classification code, all earnings are direct earnings.

There are two types of direct earnings:

- earnings that relate **only** to the business activity of the classification code, and
- earnings that are from an ancillary operation or optional insurance that are segregated and can be directly assigned to a classification code, see 14-01-01, The Classification Structure, and 12-03-02, Optional Insurance.

Common earnings

Common earnings are insurable earnings from an ancillary operation or optional insurance amounts that are not segregated and cannot be directly assigned to a classification code. For example, the employer may have workers in areas such as human resources, accounting or

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administration, whose work duties support business activities in two or more classification codes. If the employer cannot segregate the earnings of these workers by assigning labour time spent in each business activity and classification code, these earnings are considered common earnings.

Common earnings must be prorated over the direct earnings of the relevant classification codes. When reporting common earnings, the employer needs to determine the percentage of direct earnings for each classification code from the employer's total direct earnings payroll.

Example

An employer carries on four different business activities and is classified in four different classification codes. There is one administrative assistant supporting all four business activities but this employer could not maintain segregated wage records for the assistant's time spent on each business activity. In this example, all of the insurable earnings of the administrative assistant (\$48,000) are common earnings and must be prorated over the direct insurable earnings in each classification code. Each pro-rated portion is then assigned to the appropriate classification code.

How to calculate

Step 1: Employer determines direct earnings and percentage of total direct earnings from all workers for each classification code.

Classification code	Classification code description	Direct insurable earnings	Percentage of total direct earnings
314110	Carpet and rug mills	\$100,000	20%
314910	Textile bag and canvas mills	\$250,000	50%
313210	Broad-woven fabric mills	\$60,000	12%
314990	All other textile product mills	\$90,000	18%
Total		\$500,000	100%

Step 2: Apply the percentage of total direct earnings to the common earnings in order to determine the proportion of common earnings to be assigned to each classification code.

In this example, the administrative assistant's common earnings of \$48,000 will be pro-rated over the employer's four business activities.

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Classification code	Classification code description	Percentage of common earnings	Pro-rated common earnings per classification code
314110	Carpet and rug mills	20% of \$48,000	\$9,600
314910	Textile bag and canvas mills	50% of \$48,000	\$24,000
313210	Broad-woven fabric mills	12% of \$48,000	\$5,760
314990	All other textile product mills	18% of \$48,000	\$8,640
Total		100%	\$48,000

Step 3: Add up the direct and pro-rated common earnings for each classification code.

The employer should contact the WSIB for instructions on applying insurable earnings to multiple classification codes if the circumstances fall outside those described in this section.

Appendix I - Insurable earnings for premium calculations

The examples of insurable earnings listed below is a general list and is not exhaustive.

- Regular gross earnings - wages, annual salary, and payment for piecework usually reported on pay stubs, earnings statements, and in box 14 of T4 slips. Also includes any amounts reported on a T4 as deductions for:
 - Income tax
 - Employment Insurance (EI)
 - Canada Pension Plan (CPP)
 - Extended health care
 - Dental plan
 - Group insurance
 - Superannuation
 - Loss or use of equipment or tools
 - Union dues
 - Salary savings, and
 - Loan payments
- Allowances such as for car, clothing, moving, tools, and travel that are reported as taxable benefits and therefore included in income
- Bonuses, incentives, taxable awards, prizes, and taxable gifts
- Buyouts paid to performers in the motion picture industry (i.e., up-front amount paid in lieu of royalties/residuals)

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- Commissions and draws
- Cost of living allowance (COLA)
- Directors' fees: If the director is an employee of the company, the amount of the fee is added to the regular pay period's earnings
- Disability benefits, short- and/or long-term, paid to the worker directly by the employer
- Dividends:
 - in the construction industry under compulsory coverage, where executive officers of private corporations choose a remuneration package comprised of dividends, and
 - where executive officers of private corporations, with WSIB optional insurance, choose a remuneration package for themselves comprised of dividends
- Employment Insurance (Employment and Social Development Canada) Job Creation payments
- Gratuities (tips), verifiable by the employer
- Honorarium value greater than \$500
- Income splitting between spouses when the amounts are included on the spouse's T4s
- Isolation, hardship/subsistence pay
- Legal service plan (workers), employer's contribution to its workers
- Members of a religious order - the dollar value of services provided where these are recorded by an Schedule 1 employer as the amount earned by the members
- Merchandise awards
- Overtime pay
- Pay equity awards
- Pay in lieu of benefits - % of base pay
- Pay in lieu of notice as required under the *Employment Standards Act*
- Power saw rental
- Premium or discount on foreign funds if the worker is paid in foreign currency as posted by the Bank of Canada
- Profit sharing money paid to workers by the employer from a non-registered plan
- Room and board (i.e., the actual/fair market value of accommodation and meals). **Exception:** a value for free room and board is not included as earnings by farm employers for foreign farm workers employed under the "Commonwealth Caribbean/Mexican Seasonal Agricultural Worker Program", see 12-04-08, Foreign Agricultural Workers
- Salary continuance payments (keeping terminated employees on their regular salary for a specified period of time during which the person continues to accrue benefits in the company's pension plan and the employer is required to make deductions at source) made during the remainder of the year the person left employment. Payments in the following year are not insurable
- Shift pay: pay for working a period of hours outside the normal hours
- Sick pay

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- Standby pay
- Statutory holiday pay
- Stock options when a taxable benefit – the value of the employer’s contribution, in full or in part, towards the purchase of stocks
- Supplementary employment benefits plan contributions made by a worker
- **Taxable benefits:**
 - Board and lodging provided by the employer at below fair market value
 - Club membership fees
 - Company car where the employer makes an automobile available for the employee’s personal use
 - Employer paid premiums for an employee’s group term life insurance
 - Interest-free or low-interest loan provided by an employer
 - Merchandise discounts
 - Professional membership fees
 - RRSP contribution by an employer
 - Spousal travel
 - Stock options: the difference between the fair market value of the shares when the employee acquires them and the amount paid for them
 - Taxable benefit of corporate shares portion, when sold, purchased at a reduced price, and
 - Tuition for personal interest training unrelated to the employer’s business
- Top-up amounts paid by the employer for absences due to non-work-related injuries, which are included on the worker’s T4
- Vacation pay

Appendix II - Non-insurable earnings for premium calculations

With the exception of those items listed as non-insurable below, all other earnings are considered insurable for WSIB purposes.

- Adoption payments made by an employer to help a worker with legal fees
- Advances, or partial advances, as paid by an employer to a worker who is being compensated under the WSIA for full loss of earnings
- Book or ledger credits recorded by the employer representing a portion of a worker’s wages but not paid in that year
- Christmas presents e.g., turkey/ham
- Directors’ fees: the director is not an employee of the company, and the amount doesn’t exceed the basic personal amount
- Gratuities (tips) paid directly to the employee by the customer being served
- Earnings paid to an emergency worker by their regular Schedule 1 employer for the period the worker performed emergency duties

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- Earnings (pro-rated) of workers of an Ontario-based employer while working temporarily out-of-province if reported to other Canadian compensation boards
- Earnings of workers of an Ontario-based employer working outside Ontario for more than six months with no WSIB extension of coverage beyond the automatic coverage period of six months
- Employment benefits contributions from an employer for an injured worker, under s.25, for the first year after the worker is injured
- Employer payments to a worker who is receiving full WSIB benefits
- Honorarium up to \$500
- Maternity, paternity or parental benefits paid by the employer
- Pension plan benefits accrued and then paid by the employer upon termination and/or retirement
- Premium or discount on United States funds where a worker is paid in US funds
- Private health service plans (employer's contribution) where it is not a taxable benefit to the employee
- Retiring allowance, whether paid in a lump sum or in installments. Such as wages in lieu of notice in excess of the *Employment Standards Act* minimum; damages awarded from a Court settlement; payment for unused accumulated sick pay credits; cash equivalent for benefits; severance pay as required by the *Employment Standards Act* and the *Canada Labour Code*
- Room and board value is not included as earnings by farm employers for foreign farm workers employed under the "Commonwealth Caribbean/Mexican Seasonal Agricultural Workers Program", see 12-04-08, Foreign Agricultural Workers
- Salary continuance payments paid in the year following the year the person left employment
- Severance pay as required under the *Employment Standards Act*
- Sick benefits paid to a worker directly by a private insurance company
- Sick pay credits (accumulated unused) whether paid as a lump sum payment, or in installments upon ending employment
- Stock options, deferred
- Strike pay
- Supplement, by the employer, over and above a WSIB award to regular wages
- Supplementary Employment Benefits: neither the employer's contribution nor the benefit paid to the worker
- Uniforms
- Voluntary termination of employment plan payments that qualify as a retiring allowance
- Wage loss supplements paid directly by a third party (e.g., insurance or trust company)
- WSIB benefits, or
- Worker benefits payable by contractual agreement throughout a strike

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Application date

This policy applies to decisions with respect to the calculation of premiums based on earnings earned from January 1, 2021.

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08-04-03 dated September 1989.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended

Section 2(1), 12.2, 25(1), 54(1), 78(1), 87(1), 88(1), 88(3), 88.1, 141(1), (2), (3), (4), (5), and (9) and 160(1) and (2)

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Minute

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