

Policy

The WSIB applies special classification rules to temporary employment agencies (TEAs).

With respect to:

- the workers they supply to client employers, TEAs are classified based on the classifications of their client employers.
- the business activity itself of supplying workers, TEAs are classified in North American Industry Classification System (NAICS) code 561320 (Temporary Help Services).
- any non-supply of worker business activities, TEAs are classified based on the rules set out in 14-01-01, The Classification Structure.

TEAs are assigned a separate premium rate for the business activity of supplying workers and for each premium rate setting class to which they supply workers. TEAs that are also engaged in a business activity that is not related to the supply of workers are assigned a separate premium rate for that business activity.

Purpose

The purpose of this policy is to:

- outline the special classification rules that apply to TEAs, and
- promote health and safety by classifying TEAs and their client employers in the same manner and generally aligning their premium rates.

Guidelines

General

An employer who supplies workers to perform work for another employer on a temporary basis for a fee, which includes other types of remuneration, is considered a TEA. TEAs are included in Schedule 1.

An employer who receives workers from a TEA on a temporary basis for a fee is considered a client employer.

Classification

With respect to the workers TEAs supply to client employer(s), TEAs are classified in the premium rate setting class or classes of the client employer(s).

Note

For the purposes of this policy, references to classes should be read to include subclasses.

The premium rate setting class of the client employer is the class assigned by the WSIB for premium rate setting purposes; see 14-01-07, Single and Multiple Premium Rates.

**Operational
Policy**Section
Employer ClassificationSubject
Temporary Employment Agencies**Client employers not included in Schedule 1**

A TEA that supplies workers to:

- a Schedule 2 client employer, or
- a client employer that is not mandatorily covered under Schedule 1 and has not applied for Schedule 1 coverage,

is classified in the premium rate setting class the WSIB determines best represent the business activity of the client employer.

The business activity of supplying workers

All TEAs are also classified in NAICS code 561320 because they engage in the business activity of supplying workers. Their operations that are incidental to that business activity are considered ancillary and are classified in NAICS code 561320.

Classification information

TEAs are responsible for obtaining the information from client employers that is necessary for the WSIB to classify them based on the methods described in this policy. TEAs must provide that information to the WSIB upon request.

TEAs are responsible for reporting material changes in circumstances, including when they begin to supply workers to a premium rate setting class that the TEA is not currently classified in, see 22-01-01, Material Change in Circumstances - Employer.

If a TEA is supplying workers to a client employer and the client employer's premium rate setting class changes, the TEA's classification, with respect to those workers, also changes to align with the client employer. The change is applied going forward from the point the TEA is made aware of the change.

Payroll and wage records

TEAs are required to maintain segregated payroll and wage records for:

- each premium rate setting class (or classes) of the client employers to which they supply workers, and the legal names of the client employers,
- their operations classified in NAICS code 561320, and
- any 6-digit NAICS codes related to non-supply of worker business activities (if applicable).

If a worker is supplied to more than one premium rate setting class of an individual client employer, the TEA must report the worker's payroll and wage records in the premium rate setting class the worker primarily supports.

Premium rate assignment

TEAs are assigned a separate premium rate for:

- each premium rate setting class of their client employer(s) they are classified in,
- their operations classified in NAICS code 561320, and

**Operational
Policy**Section
Employer ClassificationSubject
Temporary Employment Agencies

- any non-supply of worker business activities.

For a description of how premium rates are set, see 14-02-01, Employer Level Premium Rate Setting.

Exception

If a TEA does not maintain segregated payroll and wage records, they are assigned a single class and premium rate.

To determine the class they are assigned, the WSIB considers:

- the premium rate setting class (or classes) to which they supply, or have previously supplied, workers*,
- the class that contains NAICS code 561320, and
- the class (or classes) that contains their non-supply of worker business activities (if applicable).

The TEA is assigned the class above with the highest class average premium rate.

*A TEA may request the WSIB not consider a premium rate setting class to which they have previously supplied workers if they have not supplied workers to it for at least one year.

Application date

This policy applies to all decisions made on or after January 1, 2020.

Policy review schedule

This policy will be reviewed within five years of the application date.

Document history

This is a new policy.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended
Section 72, 75(3), 77, 80, 81, 83, 118(2)1, 135

O. Reg 175/98, s.2

Minute

Administrative
#1, October 29, 2018, Page 564