

Administrative Practice Document

Related to Policy 14-02-06 Employer Premium Adjustments

Effective February 1, 2014

Note: This is not a policy; it is a supplementary document with examples of how the WSIB will administer the *Workplace Safety and Insurance Act, 1997*, (WSIA) in practice. If there is a conflict between this Administrative Practice Document and the WSIA and/or WSIB policy, the decision maker will rely on the WSIA and/or WSIB policy, as the case may be.

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When Does the WSIB Make Premium Adjustments to an Employers' Accounts?

The WSIB may make debit or credit premium adjustments to the account of an employer who is registered with the WSIB when:

- an employer notifies the WSIB in writing that a change is required
- the WSIB discovers that there is a need to make a change to an employer's account

If an employer is not registered with the WSIB, see [Policy 14-02-02 Registration](#) and [Policy 14-02-15 Voluntary Registration](#) for information about registering with the WSIB.

Premiums for new employers are based on the registration date, as outlined in [Policy 14-02-02 Registration](#) or [Policy 14-02-15 Voluntary Registration](#).

How Does an Employer Request a Premium Adjustment?

An employer must write to the WSIB and provide the reason(s) and details for their request to adjust their premiums.

What Can Change to Result in Premium Adjustments?

These adjustments include changes to the classification of an employer's business activity, insurable earnings, interest charges and non-compliance penalties.

Effective Dates of Premium Adjustments

THE TWO YEAR RULE

Unless the premium adjustment is the result of the Exception Rules (see below), the effective date of premium adjustments to an employer's account is from:

- the notification date back to January 1 of the second prior year, or
- the notification date back to the actual date that the change took place if the change happened after January 1 of the second prior year

Current Year = year of the notification date

First Prior Year = calendar year immediately preceding the current year

Second Prior Year = calendar year immediately preceding the first prior year

Notification date for a premium adjustment is:

- the date an employer's request is received by the WSIB
- the date of a site visit by a WSIB individual who is not from Employer Audit Services
- the date of the audit visit indicated on the Notice of Audit Visit letter from Employer Audit Services
- the due date indicated on the Notice of Desk Audit letter from Employer Audit Services

Example 1: Employer Requests to Revise Their Reported Insurable Earnings – Credit Premium Adjustment

For four years (2010 – 2013), Suarez Manufacturing overpaid their premiums by not deducting excess earnings for workers who earn above the WSIB annual insurable earnings maximum. The employer hires a new accountant who discovers the problem and notifies the WSIB in writing. This employer's written request to revise their prior years' insurable earnings is received by the WSIB on April 20, 2014.

The notification date establishes 2014 as the current year, 2013 as the first prior year and 2012 as the second prior year. The WSIB revises the employer's insurable earnings and a credit premium adjustment is applied to the employer's account for the current year (2014) and the two prior years (2013 and 2012).

Example 2: Employer Audit Services Determines a Debit Adjustment is Required for Under-Reported Insurable Earnings (Contractors' Earnings)

The WSIB sends a Notice of Audit Visit to Briar Ltd. stating that a WSIB auditor will visit the employer on November 20, 2013. The employer requests a postponement of the visit until January 10, 2014. The WSIB auditor visits the employer on January 10, 2014 and discovers that Briar Ltd. has under-reported their insurable earnings back to January 1, 2010 because they had miscalculated the contractor's earnings.

The notification date establishes 2013 as the current year, 2012 as the first prior year and 2011 as the second prior year. The WSIB auditor revises the employer's insurable earnings and a debit adjustment is applied to the employer's account for the current year (2013) and the two prior years (2012 and 2011).

Exception Rules (to “The Two Year Rule”)

1. Provisional Premiums

Employers are required to report their insurable earnings to the WSIB by their assigned due dates. If provisional premiums have been applied to an employer’s account, the WSIB may make premium adjustments to correct the provisional amounts for any current or prior year.

2. Voluntary Disclosure of Non-Compliant Reporting

Starting February 1, 2014, the voluntary disclosure of non-compliant reporting exception will be applied the first time an employer comes forward on their own and contacts the WSIB to voluntarily disclose and correct their under-reported insurable earnings for years that have been reconciled (see **Note** below).

Note: After January each year, the WSIB reconciles the prior year insurable earnings reported by employers who report and pay annually and quarterly. Employers who report and pay monthly submit their prior year insurable earnings reconciliation by the end of March.

Non-compliant reporting under this exception is determined by the WSIB and does not include reporting requirements such as the reporting of insurable earnings for year-end reconciliation or the reporting or revisions of insurable earnings for the current year in which premiums are based on estimated or actual insurable earnings.

Instead of an employer being required to report and pay revised premiums for several prior years, as described under “The Two Year Rule”, for one-time only this exception reduces the period of adjustment to a maximum of 12 months. The date that an employer’s written request is received by the WSIB will establish the effective date of the period to be revised.

Debit interest will still be applied to the premium adjustment but the WSIB will refrain from investigating and laying applicable provincial offences charges related to this premium adjustment.

“The Two Year Rule” will apply for all subsequent revisions submitted by an employer to correct prior years’ under-reported insurable earnings.

The voluntary disclosure of non-compliant reporting exception is applied for an employer’s first request to revise their prior years’ reconciled insurable earnings. If the employer has multiple WSIB accounts under the same legal entity (name), the one-time exception will be applied to all of the accounts that are identified in the request (one or more the employer’s accounts under the same legal entity). “The Two Year Rule” will apply for all subsequent requests received from this employer for revisions to reconciled insurable earnings for any of the accounts under the same legal entity.

Example: Voluntary Disclosure of Non-Compliant Reporting Exception Applied to Employer’s Request to Revise Prior Year’s Under-Reported Insurable Earnings

On May 10, 2014 the WSIB receives a letter from Sanjit Homes advising that they need to revise their reported insurable earnings for prior years. They advise that they did not report the insurable earnings of their occasional labour for 2013 and 2012.

This is the firm’s first request to revise their prior years’ reconciled insurable earnings therefore the voluntarily disclosure of non-compliant reporting exception is applied.

The notification date is May 10, 2014 therefore the effective date of the retroactive premium adjustment is May 10, 2013. Sanjit Homes is required to provide the WSIB with the revised actual insurable earnings from May 10, 2013 to December 31, 2013. This employer must also provide the WSIB with the revised actual insurable earnings for the months of January, February and March of the current year (2014).

A debit premium adjustment and debit interest calculated for the prior year adjustment are applied to the employer’s account.

The voluntary disclosure of non-compliant reporting exception does not apply if the under-reporting of insurable earnings is identified by the WSIB as a result of:

- Information exchange agreements between the WSIB and the Canada Revenue Agency (CRA) or other authorities or administrations
- Regulatory Service referrals
- WSIB Audit notifications and discoveries
- Anonymous telephone calls to the WSIB
- Decisions resulting from worker status reviews
- Any other means of identification

“The Two Year Rule” applies unless the premium adjustment is the result of provisional premiums adjustments, lack of full disclosure and offences or fraud. This information relates to [Policy 14-02-02 Registration](#), [Policy 22-01-05 Offences and Penalties – General](#), [Policy 22-01-08 Offences and Penalties – Employer](#), [Policy 14-02-06 Employer Premium Adjustments](#), [Policy 14-02-07 Employer Non Compliance Interest and Charges](#), and all other applicable policies.

Example: Voluntary Disclosure of Non-Compliant Reporting Exception Disallowed After Being Applied - Employer May Now Be Subject to Investigation and Prosecution

Jeff’s Temporary Employment Agency first hired a worker on January 1, 2012. This employer’s written request to revise their 2013 and 2012 reconciled insurable earnings is received by the WSIB on April 10, 2014. They advise that they did not report the insurable earnings of their administrative staff for either year.

The notification date of April 10, 2014 establishes 2014 as the current year, 2013 as the first prior year and 2012 as the second prior year. A review of this employer’s account confirms that the voluntary disclosure of non-compliant reporting exception has not been applied in the past therefore the effective date of the retroactive premium adjustment is set at April 10, 2013. A debit premium adjustment is processed for the revised insurable earnings from April 10, 2013 to April 10, 2014.

If at a later time the WSIB issued a Notice of Audit Visit to Jeff’s Temporary Employment Agency stating that a visit would take place on July 20, 2014, and the auditor visited the employer on that date and determined that the revised insurable earnings provided during their voluntary disclosure were reported inaccurately, the voluntary disclosure of non-compliant reporting exception that was allowed for this employer in April of 2014 would be disallowed.

Consequently, the auditor would revise the employer’s current year (2014) insurable earnings and their two prior years (2013 and 2012). A debit premium adjustment and debit interest would be calculated for the prior years’ adjustments and applied to the employer’s account.

Jeff’s Temporary Employment Agency would have used their one-time exception to “The Two Year Rule”.

Also, Jeff’s Temporary Employment Agency may be subject to investigation and prosecution by WSIB Regulatory Services for submitting incomplete and inaccurate information in their voluntary disclosure of under-reported insurable earnings.

3. Lack of Full Disclosure

The WSIB may adjust an employer's premiums that results in a debit adjustment to their account for lack of full disclosure. The debit adjustment can be made by the WSIB up to five prior calendar years when the employer:

- provides incomplete or inaccurate information to the WSIB
- delays, withholds, or does not fully disclose relevant information
- does not act on information provided to them by the WSIB that affects their premium
- declares themselves to be exempted from mandatory coverage in construction and is not eligible for the exemption
- reports insurable earnings of ineligible individuals under Rate Group 755 – Non-Exempt Partners and Executive Officers in Construction

This information relates to [Policy 14-02-02 Registration](#), [Policy 22-01-05 Offences and Penalties – General](#), [Policy 22-01-08 Offences and Penalties – Employer](#), [Policy 14-02-06 Employer Premium Adjustments](#), [Policy 14-02-07 Employer Non Compliance Interest and Charges](#), and all other applicable policies.

4. Offences and Fraud

The WSIB may adjust an employer's premiums that results in a debit adjustment to their account from the current year to beyond five prior years if the employer commits a fraudulent act or an offence under the *Workplace Safety and Insurance Act, 1997*, (WSIA). For more information, see [Policy 22-01-05 Offences and Penalties – General](#), [Policy 22-01-08 Offences and Penalties – Employer](#), [Policy 14-02-04 Clearance Certificate](#), [Policy 14-02-19 Clearance Certificate in Construction](#).

5. Classification Changes

Classification changes will result in premium adjustments to an employer's account. Classification changes on an employer's account are effective January 1 of the current year, unless it is the result of provisional premiums adjustments, lack of full disclosure and offences or fraud. Classification changes result in the addition or deletion of a Classification Unit on an employer's account.

Example 1: Employer Request for Classification Change

On September 3, 2014, the WSIB receives a letter from Pappas Corporation requesting a classification change. This employer believes that it has been incorrectly classified in CU 4561-000 (General Freight Trucking, Rate Group 570-01) since 2010, and requests a reclassification into CU 4842-000 (Courier Service Operations, Rate Group 577-03). The WSIB reviews the information provided by the employer and agrees to the request.

The notification date sets the current year as 2014. Classification changes are effective the current year only. The employer's business activities are reclassified in CU 4842-000 effective January 1, 2014. A credit premium adjustment is applied to the employer's account for the 2014 reported insurable earnings.

Example 2: Employer Audit Services Determines Premium Adjustment is Required for a Classification Change and for Over-Reported Insurable Earnings

The WSIB sends a Notice of Desk Audit letter to Yee Packers stating the employer must send the desk auditor requested information to perform a desk audit. The due date for submitting this information is identified in the letter as March 10, 2014.

The desk auditor reviews the information submitted and determines the employer has been misclassified under CU 1012-000 (Poultry Operations, Rate Group 210-01) since January 1, 2011. The WSIB auditor determines that the correct classification for this employer's operations is CU 1011-001 (Meat and Meat Products, Rate Group 207-01). The WSIB auditor also finds the employer over-reported insurable earnings for 2013 and 2012.

The notification date sets 2014 as the current year, 2013 as the first prior year and 2012 as the second prior year. Classification changes are effective January 1 of the current year only therefore the WSIB auditor reclassifies the employer's operations in CU 1011-001 effective January 1, 2014.

A debit premium adjustment is applied to the employer's account as a result of the 2014 classification change, and a credit premium adjustment is applied for the 2013 and 2012 corrected reconciled insurable earnings.

Example 3: Employer Audit Services Determines Premium Adjustment is Required for Incorrect Reporting of Insurable Earnings under Rate Group 755 – Non Exempt Partners and Executive Officers in Construction

The WSIB issues a Notice of Audit Visit to Prime Construction Corporation stating that a visit will take place on May 10, 2014. The auditor visits the employer on May 10, 2014, reviews their Articles of Incorporation, Charter, By-laws, etc. and determines the employer has two executive officers. Prime Construction Corporation has been reporting the insurable earnings of four individuals under CU 1000-005 (Non-Exempt Partners and Executive Officers in Construction, Rate Group 755-05) for 2014 and 2013.

The notification date sets the current year as 2014, the first prior year as 2013 and the second prior year as 2012. Mandatory coverage in construction became effective January 1, 2013 therefore the effective date of the premium adjustment is set at January 1, 2013. The WSIB auditor decreases the employer's insurable earnings under CU 1000-005 (Non-Exempt Partners and Executive Officers in Construction, Rate Group 755-05) and increases the insurable earnings under CU 4021-099 (Industrial, Commercial and Industrial Construction, Rate Group 723-02) effective January 1, 2013.

A debit premium adjustment and debit interest calculated on the debit premium adjustment is applied to the employer's account.

Verification

The workplace health and safety system relies on workplace parties to register when required and to accurately report and meet their obligations—anything less undermines the integrity of the system. The WSIB has a duty to ensure that workplace parties meet their obligations. When workplace parties do not meet their obligations, the WSIB will use legislated powers to ensure obligations are fairly met.

The WSIB has the right to verify that employers have met their WSIB obligations, including the effective date of registration and reported annual amounts. The WSIB may review any documentation as necessary and may include but is not limited to:

- Ownership documentation (e.g., Corporate Minute Book, Business or Partnership Registration)
- Payroll records, such as T4's, T4A's, T5's, Statement of Investment Income and payroll journal(s)
- T5018, Statement of Contract Payments
- Clearance Certificates obtained for all retained contractors
- Prepared financial statements, including Statement of Business Activities or Profit and Loss Statement
- Contractors' invoices/contracts, etc.
- Cheque registers or cash disbursement journals

If the information reported differs from the verified information, the WSIB will adjust employers' accounts accordingly. Additionally, submitting incomplete or inaccurate information, or failure to keep and/or produce accurate records, can result in penalties and/or prosecution.

The WSIB and the Canada Revenue Agency (CRA) exchange information to maintain the integrity of their systems and ensure a level playing field for Ontario employers.

Questions

Visit the WSIB website, www.wsib.on.ca for information about Online Services.

- Call the WSIB from Monday to Friday, 7:30 am to 5 pm at 416-344-1000 or toll free at 1-800-387-0750.
- For all Online Services questions, including support issues, call 416-344-4122 or toll-free at 1-888-243-1569 (TTY: 1-800-387-0050) Monday to Friday from 7:30 am to 5pm EST.