

Operational
Policy

Section
Employer Classification

Subject
Associated Employers

Law**O. Reg. 175/98 s.11**

If two or more employers are associated, and the operation of one employer would be considered ancillary to the operation of the other if both operations were carried out by a single employer, then the operations are classified as if they were carried out by a single employer.

Two employers are associated if

- they are individuals who are related to each other as spouses (as defined in Part III of the Family Law Act), or as siblings, or as parents and children, **or**
- one employer is a corporation and another employer is
 - a person who **controls** the corporation; **or**
 - a member of a **related group** that controls the corporation; **or**
 - an individual who is related to a person who controls the corporation, or to an individual who is related to a member of a related group that controls the corporation; **or**
 - a partnership that controls the corporation; **or**
- the employers are corporations, and
 - the corporations are controlled by the same person; **or**
 - the corporations are controlled by individuals who are related to each other; **or**
 - one corporation is controlled by an individual who is related to a member of a related group that controls the other corporation; **or**
 - the corporations are controlled by related groups and a member of one of the related groups is related to a member of the other related group; **or**
- the employers are partnerships and there are persons who are general partners of both partnerships and those persons are entitled to share in at least 50 per cent of the profits of each partnership.

For the purposes of this policy

- a person or partnership **controls** a corporation if enough shares to elect a majority of the board of directors are held, other than as security, by or for the benefit of the person or partnership; and
- a **related group** is a group of individuals each of whom is related to all the other members of the group.

An employer is associated with all the members of a group of associated employers, if the employer is associated with any one member of the group.

Guidelines

NOTE

For an overview of the WSIB's classification scheme, see 14-01-01, The Classification Scheme.

Classification of associated employers

When two employers are associated and one engages in an operation normally considered to be ancillary to the business activity of the other, then both operations are classified in the CU pertaining to that business activity.

The following examples detail three possible scenarios for a logging firm which cuts logs in the forest and then hauls them to the mill.

1.) Firm hauls own logs to mill

Since the transportation of goods produced is an ancillary operation, the WSIB would classify the haulage operation of a logging firm hauling its own logs in the same CU as the logging business activity, i.e., CU 0411-099, Logging Operations (RG #030).

2.) Firm contracts with non-associated employer to haul logs to mill

In the case of non-associated employers where one employer contracts with another, the WSIB classifies each employer according to its own business activity. For example, a logging firm classified in CU 0411-099, Logging Operations (RG #030), engages a non-associated trucking firm to haul its logs from the forest to the mill. In this case, the WSIB classifies the trucking firm's earnings for the contracts with the logging firm as part of its business activity, i.e., CU 4565-000, Forest Products Trucking (RG #570).

3.) Firm contracts with associated employer for haulage

The classification of the trucking firm in scenario 2.) changes if the WSIB determines that the trucking firm and the logging firm are associated. The WSIB then considers the trucking firm's activity to be an ancillary operation to the firm's logging activity. The WSIB therefore classifies the trucking firm's earnings for contracts with the logging firm in the CU for logging (0411-099, RG #030).

In this example, the trucking firm also takes contracts from non-associated employers. If the trucking firm's earnings for the associated operation cannot be segregated from its other earnings, then the entire earnings of the trucking firm are classified in the CU for the activity with the highest premium rate (see 14-01-05, *Special Ancillary Rules*). Rate group 030 currently has a higher premium rate than rate group 570. Therefore, the entire earnings of the trucking firm are classified in the CU for logging (0411-099, RG #030).

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Disclosure of association

Employers must declare associations with other employers at the time of registration. The WSIB may determine whether a firm is associated with another firm at the time of registration or upon subsequent audit and classifies the business activity accordingly.

Application of ancillary operation guidelines

All rules applying to ancillary operations apply to an associated employer considered to be ancillary.

If a small employer is considered associated with another employer, the special ancillary rules (see 14-01-05, Special Ancillary Rules) as applied to an associated employer take precedence over the small employer rule (see "Small employer" in 14-01-04, Aggregated Payroll).

Example

In Scenario 3.) above, the associated trucking employer who cannot segregate earnings is a small employer (i.e., annual insurable earnings less than five times the maximum insurable earnings ceiling). The employer's predominant business activity is established by a determination that the largest percentage of earnings is generated by contracts other than those received from the associated logging firm.

In this case, the small employer cannot classify all its earnings under the predominant trucking activity. The rule stating that an associated employer (regardless of size) is classified with the main business activity takes precedence, and all earnings are classified in the CU for logging (0411-099).

Application date

This policy applies to all decisions made on or after March 9, 2005.

Document History

This document replaces 14-01-06 dated October 12, 2004.

This document was previously published as:
08-03-12 dated October 22, 2001.

References**Legislative Authority**

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

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O. Reg. 175/98
Section 1, 11

Workers' Compensation Act, R.S.O. 1990, as amended
Sections 69(2)(a), 108(2), 109, 111(1), 113, 117(2)

R.R.O. 1990, Reg. 1102
Sections 1, 5

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#5, December 11, 2007, Page 452