

 Yukon Workers' Compensation Health and Safety Board	<b>Part:</b>	<b>Employer Assessments</b>	
	<b>Board Approval:</b>	<i>Original Signed by Chair</i>	<b>Effective Date:</b> <b>July 1, 2008</b>
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	<b>Board Order:</b>		<b>Review Date:</b>

## **EMPLOYERS IN MORE THAN ONE INDUSTRY**

### **GENERAL INFORMATION**

Some employers work in more than one line of business. In these situations, it must be determined whether all of the employer's businesses will be assigned to one industry classification, or whether separate classifications are justified. The intent of this policy is to support an industry classification system that provides for fair and equitable assessment rates.

This policy will not apply to a casual worker, defined in section 5(1)(a) of the *Workers' Compensation Act* S.Y. 2008 (the "Act") to be "a person employed on a casual basis, otherwise than for the purposes of the employer's industry." Further information is included within YWCHSB policy, "Optional Coverage for Casual Employees (Those Working Outside the Employer's Normal Industry), Persons Acting in a Religious Function, and Volunteers," regarding coverage of these casual workers on the application of an employer.

### **PURPOSE**

This policy assists in determining the circumstances in which the employer must be assigned to more than one industry classification.

### **DEFINITIONS**

- 1. Business:** an undertaking being carried on that constitutes a particular activity in an industry classification.
- 2. Capital Construction:** the expansion or addition of physical facilities used in a business.

## **POLICY STATEMENT**

### **1. Multiple Classification Intent**

The *Act* classifies employers based on their industry, not based on the occupations of their staff. Multiple classifications will not be granted based solely on the occupation of employees.

Employers operating in more than one business, where each business is of sufficient size to be in competition with other employers carrying on in those industries, should pay the same assessment rates as their competitors.

Each business of an employer considered for multiple classifications must be separate so that it does not contribute to the risk of injury or illness in another business of the same employer.

### **2. Responsibility for Providing Information**

When the Yukon Workers' Compensation Health and Safety Board (YWCHSB) requests information from the employer to change the industry classification or assign more than one industry classification to an employer, the employer shall provide the information within 10 days of receiving notice, as required by subsection 84(3) of the *Act*.

When an employer's business changes, it is the responsibility of the employer to notify the YWCHSB so that appropriate classification can occur.

### **3. Criteria for More Than One Industry Classification**

In order for an employer to qualify for more than one industry classification, the different businesses must be distinct and independent operations. The employer's records must demonstrate, to the satisfaction of the YWCHSB, that all the criteria below have been satisfied.

- a) The employer must employ a separate and distinct group of employees for each business, with a minimum of one worker dedicated to each; and
- b) There must be separate equipment, inventory and work locations such that employees in one business are not exposed to the hazards of the other business(es); and
- c) Each business must be capable of operating independently of the other(s) with separate and distinct sources of revenue; and

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- d) The business in question does not exist to serve or support the primary business of the employer, or be an ancillary part of the employer's primary business; and
- e) Each business must meet one of the following conditions:
  - i) generate an annual assessable payroll that is at least 10 per cent (10%) of the gross annual assessable payroll of all the employer's businesses; or
  - ii) generate an annual revenue that is at least 10 per cent (10%) of the gross annual income of all the employer's businesses; and
- f) The YWCHSB may use other criteria, on a case by case basis, which will assist in determining when it is appropriate to classify an employer in more than one industry.

#### **4. Support or Management Staff**

The YWCHSB shall, where there is common support and/or management staff, prorate the support and/or management staff. Usually the YWCHSB will use assessable payroll as the basis for proration of common staff; however, other criteria may be used as appropriate.

#### **5. Capital Construction**

If an employer undertakes capital construction using their own workers to expand, modify or replace facilities necessary for the operation of the business, this construction will be classified separately.

#### **6. Intermingled Business**

When two or more businesses of the same employer cannot be classified separately because of intermingling, they will be combined into one classification. The highest rated classification will be used if it accounts for at least 40 per cent (40%) of the assessable payroll of the intermingled businesses.

#### **7. Annual Reporting**

Employers who are classified in more than one industry shall provide the YWCHSB with separate employer payroll returns for each classification, utilizing the approved method of prorating common support and/or management staff.

## **APPLICATION**

This policy applies to the YWCHSB and to employers who are engaged in more than one industry and who are subject to assessment under the *Act*.

## **EXCEPTIONAL CIRCUMSTANCES**

In situations where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or an unintended result, the YWCHSB will decide the case in accordance with YWCHSB policy, “Merits and Justice of the Case.” Such a decision will be considered for that specific case only and will not be precedent setting.

## **APPEAL**

Decisions made by the YWCHSB under this policy can be appealed directly in writing to the Board of Directors of the YWCHSB in accordance with subsection 85(1) of the *Act*.

## **ACT REFERENCES**

Sections 5, 69, 70, 78, 83, 84, and 85

## **POLICY REFERENCES**

EA-03, “Optional Coverage for Casual Employees (Those Working Outside the Employer’s Normal Industry), Persons Acting in a Religious Function, and Volunteers”

EN-02, “Merits and Justice of the Case”

## **HISTORY**

AS-09, “Employer’s in More Than One Industry”, effective January 1, 2006, revoked July 1, 2008.