

**Chapter:** Employer Assessments

**Legislative authority:** section 147

*Prevention statement*

*Preventing injuries is one of the most important responsibilities in the workplace. The Workers' Safety and Compensation Act (the 'Act') establishes the responsibilities of all workplace parties to work together to ensure the physical and psychological health and safety of workers. When injuries do occur, workers and employers must continue to work together to facilitate an injured worker's early and safe return to health and work.*

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## Purpose

This policy outlines how the relationship between the previous and successor owners of a business are determined and allows for experience accounts to be blended for related employers in determining total experience.

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## Definitions

**board** means the Workers' Safety and Compensation Board

**employer** means every association, corporation, individual, partnership, person, society or unincorporated organization or other body having in their service one or more workers in an industry and as further defined in section 77 of the Act

**experience account** means an employer account which indicates the assessments levied and the cost of all claims charged to the account

**payroll** means the total amount of all wages and salaries that an employer paid to its workers during a calendar year, including: commissions, tips, remuneration for overtime, piece work, and contract work, bonuses and allowances, the cash equivalent of board and lodging, store certificates, directors fees, indemnities, allowances paid to members of the Legislative Assembly or elected officials of a municipality, and any substitute for money

**risk** means the probability of an incident occurring from exposure to a hazard. Factors used to assess an employer's historical work environment as it relates to risk include the classification of the industry it conducts business in, the claims costs charged to the experience account (in terms of amount and frequency), the safety practices or safety violations it may have on record, operational exposure hours, etc.

**super-assessment** means an assessment over and above an employer's ordinary annual assessment that covers, in whole or in part, their higher than normal claims costs

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**Effective date:** July 1, 2022

**undertaking** means the business operation's classification, and its business operation's processes and procedures

**worker** means a person who performs work or services for an employer under a contract of service or apprenticeship, written, or oral, express or implied and as further defined in section 77 of the Act

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## Policy statement

### 1. General

When an employer reorganizes, restructures or undergoes a change in ownership, the board determines whether to transfer, blend or close the employer's experience account(s).

Under the Act, when an employer commences or recommences in an industry in Yukon, they must provide the board, within 10 days, with a statement that includes the following information:

- a. the total payroll for the employer's workers for the immediately preceding year;
- b. an estimate of the total payroll for its workers for the current year or any part of it as the board directs;
- c. the nature of its industry;
- d. a list of all subcontractors and the amounts paid to them; and
- e. any additional information that the board may require.

When a person or body ceases to be an employer they must notify the board within 10 days after they cease to be an employer and, at that time, must provide the board with a statement of their total payroll for the year.

### 2. Principles

The Act requires the board to maintain an experience account for each employer, indicating the assessments levied and the costs of all claims. This in turn establishes the basis to set the assessment rate, and apply super-assessments when claims costs are higher than normal and there are inadequate prevention practices.

Costs of claims are equitably distributed through the principle of collective liability for the hazards reflected in an industry class. They may also be recognized through individual employer

accountability for claims costs associated with the employer's experience account - through super-assessment, for example.

In applying the Act, this policy considers the objectives of fair assessments to employers, maintenance of a solvent compensation fund and the treatment of employers and workers with respect and fairness.

### 3. Determining ownership continuity

The board may examine some or all of the following criteria in determining ownership continuity and whether the business is likely to continue substantially the same, with similar risk of industry hazard.

Where these criteria are met, the experience account will continue through transfer or blending of experience accounts. Where these criteria are not met, the experience account will be closed and charged to the industry class.

#### *3.1 51 per cent (51%) or more continued ownership*

As the ownership of a business generally determines the nature of operations and approach to workplace health and safety, a criterion in determining whether experience should be transferred or continued is whether there is a change in ownership.

Where there is 51 per cent (51%) or more continued ownership, the experience account should be continued. The industry classification will also remain generally the same. In these situations, it is assumed that business's relative hazard or cost of compensation remains the same.

#### *3.2 Exceptions*

As an exception to the 51 per cent (51%) or more continued ownership rule, generally experience will not continue or transfer unless the board is satisfied that the business operations remain substantially the same, such that the risk and industry hazard are likely to remain unchanged. The industry classification will also remain the same.

This exception is primarily to address the following situations:

- a. Where the business ownership is relatively removed from the day-to-day operations and does not supervise staff and/or make management decisions. This is typically the case for a large publicly traded company where shareholder activity may result in a change in ownership, but does not alter the business operations.

## Transfer of Employer Experience Account

- b. The change is amongst existing owner(s). This includes changes in: partnership composition; a proprietor or partnership incorporating; a corporation changing to a partnership or proprietor; or changes between a partnership and a proprietorship. At least one related person(s) remains after the change and business operations remain substantially the same.
- c. Where the new ownership is a family member of the prior ownership. Factors that will influence whether the experience will transfer include whether the undertaking remains the same, whether the new ownership has been historically involved, and whether the previous ownership will still be active in the business.

Indicators used in determining whether individuals or employers are related and whether the business is continuing substantially the same predominantly include: undertaking, executive officers, management, and staff. Other considerations include location, clients/customers, company assets, logo or trademarks, and whether the operational and financial control remains with the original owners.

Board staff will interpret these indicators and weigh them in conjunction with the level of continued ownership in determining whether an account will be closed, transferred or blended, depending on the nature and extent of the change.

Blending experience accounts may occur when a relationship between two employers is found, such as between two amalgamating corporations. Accounts will be blended based on the sum total of payroll and claims costs charged to the employer for the year of amalgamation. Historical information of each employer would be on record and may be used for other programs or policies. This would include payroll and claims cost histories, indicating relative size and risk of each employer.

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## History

- EA-10 Transfer of Employer Experience Account, effective January 1, 2016, revoked July 1, 2022
- EA-10 Transfer of Employer Experience Account, effective July 1, 2008, revoked January 1, 2016
- AS-15 Transfer of Employer Experience Account, effective May 11, 2004, revoked July 1, 2008
- AS-15 Change of Ownership, January 1, 1993 under review, rescinded May 11, 2004