Section Title: Finance, Assessments and Administration - Accounting and Finance
Subject: Transfer of Assessment Rates and Claim Costs Experience on Change of Ownership
Effective Date: January 1, 2018 to December 31, 2022

A. POLICY PURPOSE

The purpose of this policy is to establish criteria for when an employer's assessment rates and Claim Costs Experience will follow the business on a change in ownership and be used to determine assessment rates for the new employer. It is important to distinguish between when a business ceases to operate and when all or part of a business continues in substantially the same form under new ownership because the WCB sets assessment rates based, in part, on an employer's Claim Costs Experience.

Appendix A includes a glossary of commonly used terms.

B. POLICY

This policy applies only to Class E Employers.

As a general principle, when a business changes ownership, but continues to operate in substantially the same form, the WCB will transfer the assessment rates and Claim Costs Experience from the old employer to the new employer. Doing so ensures that assessment rates for the new employer reflect the Claim Costs Experience of the ongoing business. The assessment rates and the Claim Costs Experience will be used to determine current and future assessment rates. The assessment rates and Claim Costs Experience will be transferred to the successor employer(s) when the change in ownership occurs through:

- the sale of shares of an incorporated business; **or**,
- the sale of a substantial portion of the assets of an incorporated or unincorporated business, **and** the business continues to operate in substantially the same form; **or**,
- the appointment of a trustee, receiver, liquidator, executor or administrator who carries on all or part of the business: **or**
- the sale of shares or a substantial portion of the assets of a multi-class or associated employer, **and** the business continues to operate in substantially the same form.

When a change in ownership does not represent a continuation of the same business, or the business ceases to operate through a change in ownership, the ongoing Claim Costs Experience will be shared among Class E employers.

A change in the legal status of an employer, such as the incorporation of a proprietorship or partnership or a corporate reorganization, will not be considered to be a change in ownership for purposes of this policy. The assessment rates and Claim Costs Experience of the predecessor entity(ies) will remain with the new legal entity.

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C. REFERENCES

The Workers Compensation Act, paragraph 60(2)(o), sections 81, 82, 88

Related WCB Policies:

WCB Policy 31.05.05, *Rate-Setting Model for Class E Employers*
WCB Policy 35.20.10, *Placement of Employers into Industry Classifications*
WCB Policy 35.20.15, *Associated Employers*

HISTORY

1. Policy 31.05.20 was approved by Board Order 28/96, effective for all decisions regarding transfer of cost experience on change of ownership on or after January 1, 1996.
2. Policy 31.05.20 was amended by Board Order 41/09, to clarify the criteria used to determine whether to transfer an employer's experience, effective for all decisions regarding transfer of cost experience on change of ownership on or after January 1, 2010.
3. Policy amended by Board Order 17/17 on June 28, 2017 effective January 1, 2018. Policy revisions include new terminology to reflect the new Policy 31.05.05, *Rate-Setting Model for Class E Employers*.
4. A reference to Policy 31.05.15 was updated to reflect the proper policy name on October 19, 2018.
5. Minor formatting changes were made to the policy, October 2020.
6. In September 2022, policy revisions respond to a change in terminology that was introduced by amendments to the Act by *The Minor Amendments and Corrections Act* (MACA) 2022. The term "self-insured employer" was replaced with "individually assessed employer". The policy was changed to reflect the new title of policy 31.05.15, *Cost Transfer - Self Insured*, which is now the *Cost Transfer - Individually Assessed Employers* policy. The name of policy 31.05.10 was also changed from *Cost Relief/Cost Transfer - Class E* to *Cost Relief/Cost Transfer - Class E Employers*.
7. Policy was archived December 31, 2022.

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Appendix A - Glossary of Terms

Class E Employers: Those employers who pay for the costs of the workers compensation system based on their payroll and Claim Costs Experience. These employers are subject to the collective liability provisions of the *Act*.

Claim Costs Experience: For the applicable Experience Period, the employer's Claim Costs Experience includes:

- Claim costs assigned to the individual employer;
- Proxy costs which may be assigned as a result of an accepted fatality claim; and
- Claim costs which are transferred to the employer under policy 31.05.10, *Cost Relief/Cost Transfer - Class E Employers,* policy 31.05.15, *Cost Transfer - Individually Assessed Employers* and policy 31.05.20, *Transfer of Assessment Rates and Claim Costs Experience on Change of Ownership*.

Costs Excluded from Rate Setting: The Costs Excluded from Rate Setting for an employer are as follows:

- the costs incurred for claims with accident years outside the experience period;
- ineligible (disallowed) claims;
- translation or interpretation services;
- courier or mail delivery expenses;
- compliance investigative (surveillance) costs;
- WCB medical advisor fees;
- group life insurance benefits;
- medical review panel expenses;
- external legal counsel fees or expenses;
- wages paid for the day of the accident; and
- claim costs relieved or transferred as provided for in policy 31.05.10, *Cost Relief/Cost Transfer - Class E Employers*, policy 35.40.50, *Overpayment of Benefits*, and policy 44.20.50.20, *Noise-Induced Hearing Loss*.

Experience Period: The time period and claim accident years that will be included to determine Rate-Setting Claim Costs.

Rate-Setting Claim Costs: The Claim Costs Experience for claims in the Experience Period less the Costs Excluded from Rate Setting.

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