

Policy

The WSIB applies special classification rules to temporary employment agencies (TEAs).

With respect to:

- the workers they supply to perform administrative, clerical and knowledge-based labour for client employers, TEAs are classified in classification code 001281 (Supply of administrative, clerical and knowledge-based labour)
- the workers they supply to perform all other types of labour for client employers, TEAs are classified based on the classifications of their client employers
- the business activity itself of supplying workers, TEAs are classified in North American Industry Classification System (NAICS) code 561320 (Temporary help services)
- any non-supply of worker business activities, TEAs are classified based on the rules set out in 14-01-01, The Classification Structure.

TEAs are assigned a separate premium rate for the business activity of supplying workers, the workers they supply to perform administrative, clerical and knowledge-based labour, and for each premium rate setting class to which they supply workers to perform all other types of labour. TEAs that are also engaged in a business activity that is not related to the supply of workers are assigned a separate premium rate for that business activity.

Purpose

The purpose of this policy is to:

- outline the special classification rules that apply to TEAs, and
- promote health and safety by classifying TEAs and their client employers in the same manner, and generally aligning their premium rates, for most types of supplied labour.

Guidelines

General

An employer who supplies workers to perform work for another employer on a temporary basis for a fee, which includes other types of remuneration, is considered a TEA. TEAs are included in Schedule 1.

An employer who receives workers from a TEA on a temporary basis for a fee is considered a client employer.

Classification

With respect to the workers TEAs supply to client employers to perform administrative, clerical and knowledge-based labour, TEAs are classified in classification code 001281.

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With respect to the workers TEAs supply to client employers to perform all other types of labour, TEAs are classified in the premium rate setting class or classes of the client employers.

For the purposes of this policy, references to classes should be read to include subclasses.

The premium rate setting class of the client employer is the class assigned by the WSIB for premium rate setting purposes, see 14-01-07, Single and Multiple Premium Rates.

Client employers not included in Schedule 1

A TEA that supplies workers to:

- a Schedule 2 client employer, or
- a client employer that is not mandatorily covered under Schedule 1 and has not applied for Schedule 1 coverage,

is classified in the premium rate setting class the WSIB determines best represents the business activity of the client employer, unless the supplied labour is administrative, clerical or knowledge-based.

When a TEA supplies workers to perform administrative, clerical or knowledge-based labour to a client employer not included in Schedule 1, it is classified in classification code 001281.

The business activity of supplying workers

TEAs may also be classified in NAICS code 561320 because they engage in the business activity of supplying workers. Their operations that are incidental to that business activity are considered ancillary and are classified in NAICS code 561320.

TEAs that do not employ workers to perform support activities for their business activity of supplying workers (e.g., when those support activities are exclusively performed by the sole proprietor, partner(s) or executive officer(s)), are generally **not** classified in NAICS code 561320.

Classification information

TEAs are responsible for obtaining the information from client employers that is necessary for the WSIB to classify them based on the methods described in this policy. TEAs must provide that information to the WSIB upon request.

TEAs are responsible for reporting a material change in circumstances, including when they begin to supply workers to perform administrative, clerical or knowledge-based labour, or they begin to supply workers to perform any other types of labour to a premium rate setting class in which the TEA is not currently classified. For the policy on material change in circumstances, see 22-01-01, Material Change in Circumstances - Employer.

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If a TEA is supplying workers to perform labour that is not administrative, clerical or knowledge-based for a client employer and the client employer's premium rate setting class changes, the TEA's classification, with respect to those workers, also changes to align with the client employer. The change is applied going forward from the point the TEA is made aware of the change.

Payroll and wage records

TEAs are required to maintain segregated payroll and wage records for:

- each premium rate setting class (or classes) of the client employers to which they supply workers to perform labour that is not administrative, clerical or knowledge-based, and the legal names of the client employers*
- their operations classified in classification code 001281, and the legal names of the client employers
- their operations classified in NAICS code 561320, and
- any 6-digit NAICS codes related to non-supply of worker business activities (if applicable).

*If a worker is supplied to more than one premium rate setting class of an individual client employer, the TEA must report the worker's payroll and wage records in the premium rate setting class the worker primarily supports.

Premium rate assignment

TEAs are assigned a separate premium rate for:

- each premium rate setting class of their client employers they are classified in
- their operations classified in classification code 001281
- their operations classified in NAICS code 561320, and
- any non-supply of worker business activities.

For a description of how premium rates are set, see 14-02-01, Employer Level Premium Rate Setting.

Exception

If a TEA does not maintain segregated payroll and wage records, they are assigned a single class and premium rate.

To determine the class they are assigned, the WSIB considers the classes they are currently classified in and have previously been classified in. The TEA is then assigned the class with the highest class average premium rate.

A TEA may request the WSIB not consider a class they have previously been classified in if their operations under that class have been inactive for at least one year.

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Application date

This policy applies to all decisions made on or after January 1, 2025.

Document history

This document replaces 14-01-08 dated April 9, 2021.

This document was previously published as:
14-01-08 dated January 2, 2020.

References

Legislative authority

Workplace Safety and Insurance Act, 1997, as amended
Sections 72, 75(3), 77, 80, 81, 83, 118(2)1, 135

Ontario Regulation 175/98

Approval