

**Operational
Policy**Section
Employer AccountsSubject
Credit Interest on Appeals**Law****s.159(2)(a)**

~~The Board has the power to establish policies concerning the premiums payable by employers under the insurance plan.~~

Policy

The WSIB pays credit interest on successful appeals provided the employer had previously paid the disputed premium amount in full.

Guidelines**Definitions**

Appeal - for the purpose of this policy, means a reconsideration of a decision-maker's decision following an employer's objection, an appeal to the Appeals Branch or to the Workplace Safety and Insurance Appeals Tribunal (WSIAT).

Disputed premium - for the purpose of this policy, refers to an employer's appeal of a premium issue and includes:

- a reclassification
- status determinations regarding a worker, independent operator, or executive officer
- adjustment of earnings
- debit interest and charges, and/or
- experience rating surcharge/rebate adjustments, ~~or premium~~ or premium rate adjustments.

The disputed premium could be either for an amount due for a past period, or a premium amount that becomes due while the issue is under appeal.

Credit interest - for the purpose of this policy, is the Bank of Canada rate. This interest rate is adjusted quarterly.

Case Examples

Credit interest is paid in appeal situations such as those illustrated in the following case examples.

Example 1 - Letter of credit posted

On April 3, 2020, the WSIB reclassifies an employer resulting in a higher premium rate effective January 1, 2020. The employer objects to the reclassification on June 15, 2020, and posts a letter of credit (~~see OPM 14-04-05, Alternative Payment Arrangements~~) with the WSIB for the past additional premium amount owing due to the reclassification, [refer to 14-04-05, Alternative Payment Arrangements](#). The employer

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continues to pay its ongoing premiums from June 15, 2020 throughout the entire reconsideration and appeal process. The original decision-maker confirms its reclassification decision, and refers the objection to the Appeals Branch, which rules in favour of the employer (i.e., overturns the original decision-maker's reclassification decision) in its decision on December 17, 2020. Credit interest is calculated from the time the employer paid its premium owing (June 15, 2020) to the date the Appeals Branch December 17, 2020 decision is processed.

NOTE[Note](#)

If the appeal ~~above~~ proceeded to WSIAT, and WSIAT ruled in the employer's favour, the credit interest calculation would extend to the date the WSIAT's decision is processed.

Example 2 - Premium payment in full

Using a different payment approach to the situation described in Example 1, an employer may pay the full amount of the past additional premium amount on May 15, 2020, as well as, its ongoing premiums throughout the appeal process. By choosing this payment-in-full approach, credit interest is calculated from May 15, 2020 to the date the Appeals Branch December 17, 2020 decision is processed.

Example 3 - Account adjustment

An employer is audited on December 9, 2022 for the years 2020 and 2021. The auditor determines that a number of contractors engaged by the employer are workers whose earnings the employer did not include in its calculation of WSIB premiums. The auditor adds these contractors' earnings to the employer's account, which result in an additional premium amount owing by the employer. On February 12, 2023, the employer objects to the additional premium notice since the employer considers those contractors to be independent operators. The appeal passes through and is confirmed at the reconsideration stage and by the Appeals Branch. The employer decides to take the issue further to WSIAT. On November 23, 2023, WSIAT rules in favour of the employer, in that the contractors are considered independent operators (not workers) and that the additional premium based on their earnings be reversed.

If the employer posts a letter of credit for the additional premium for 2020 and 2021, and continues to pay its ongoing premiums from February 12, 2023 until WSIAT's November 23, 2023 decision, credit interest is calculated from February 12, 2023 to the date WSIAT's decision is processed (the period the employer continued to pay its ongoing premiums).

If the employer paid the additional premium for 2020 and 2021 in full on January 15, 2023, and continued to pay its ongoing premiums until WSIAT's November 23, 2023 decision, credit interest is calculated from January 15, 2023 to the date WSIAT's November 23, 2023 decision is processed.

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Example 4 - Adjustments under experience rating programs*

On November 7, 2017, an employer receives a [New Experimental Experience Rating Plan \(NEER\)](#) bulk issue comprised of a surcharge for each of 2013, 2014, 2015, and 2016 injury years. In March 2018, a 2013 injury was granted [Second Injury and Enhancement Fund \(SIEF\)](#) relief. In April 2018, the employer requests that the injury year be adjusted to reflect the SIEF relief. Based on experience rating policy, the request to adjust is denied. The employer objects to the experience rating decision. The objection is referred to the Appeals Branch, which rules in favour of the employer.

Scenario 1 - surcharge paid in full

The employer has paid the entire NEER surcharge in full, by the due date, December 31, 2017.

If the appeal decision results in a reduced surcharge for 2013, credit interest is calculated based on the reduced amount from December 31, 2017 (the due date) to the date the adjustment is processed.

If the appeal results in a net credit for 2013, credit interest is calculated based on the adjusted value (surcharge plus net credit), from November 7, 2017 (the bulk issue date) to the date the adjustment is processed.

Scenario 2 - letter of credit posted

The employer posts a letter of credit for the 2013 NEER surcharge amount.

If the appeal decision results in a reduced surcharge for 2013, neither debit or credit interest is calculated.

If the appeal decision results in a net credit for 2013 over and above the amount covered by the letter of credit, credit interest is calculated, based only on the net credit amount, from November 7, 2017 (the bulk issue date) to the date the adjustment is processed.

Scenario 3 - surcharge not paid in full

The employer has not paid the 2013 portion of the total NEER surcharge.

If the appeal decision results in a reduced surcharge for 2013, credit interest is not calculated for the reduced amount. Also, there is no adjustment to any debit interest calculated to date.

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If the appeal decision results in a net credit for 2013, credit interest is calculated, based only on the net credit from November 7, 2017 (the bulk issue date) to the date the adjustment is processed. There is no adjustment to any debit interest calculated to date.

NOTE

As a result of the phasing out of the experience rating programs, the 2017, 2018 and 2019 accident years will not be subject to the four year review period. The final review for claims with accident years in 2017, 2018 and 2019 will occur in 2020, [see refer to 13-02-02](#), NEER (New Experimental Experience Rating Plan) and [13-02-06](#), Construction Industry Plan (CAD-7).

Debit Interest

Debit interest will continue to be applied in cases where the employer does not:

- pay the full amount of the disputed premium, or
- provide a letter of credit as security on past premiums due.

For more information on the application of credit and debit interest, [see refer to 14-02-07](#), Employer Non-Compliance Interest and Charges.

For the application of the letter of credit, [see refer to 14-04-05](#), Alternative Payment Arrangements.

Application date

This policy applies to all decisions on or after ~~January 1, 2020~~ [December 5, 2024](#).

Document History

This document replaces 14-02-16 dated ~~April 7, 2008~~ [January 2, 2020](#).

[This document was previously published as:
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References**Legislative authority**

Workplace Safety and Insurance Act, 1997, ~~as amended~~
~~Sections 159(2)(a)~~

Minute Approval

Administrative
~~#12, December 17, 2019, Page 573~~