POLICY REPORT
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WSIB Workplace Safety & Insurance Board
ONTARIO
CSPAAT Commission de la sécurité professionnelle et de l'assurance contre les accidents du travail

INSIDE

Tax cuts and insurance benefits

Recent tax cuts may increase WSIB benefits

In its February 28, 2000 budget the federal government announced a decrease in the personal income tax rate and the provincial government made a similar announcement in its May 2, 2000 budget. The two levels of tax cuts, that took effect July 1, 2000, will likely mean an increase in certain insurance benefits.

Applying the tax adjustment

The WSIB calculates most benefits based on a percentage of an injured worker's pre-injury net average earnings (NAE)*****, which are themselves determined by deducting from the worker's gross earnings the probable CPP/QPP premiums, Employment Insurance (EI) premiums, and income tax the worker would pay.

Income tax payable is based on federal and provincial tax rates and, since the federal and provincial governments have reduced the amount of payable income tax, the WSIB's calculations will incorporate these reductions, thereby increasing the amount of a worker's NAE. This may result in an increase in benefits.

Benefits affected

If the payments span, or start on or after July 1, 2000, workers may see an increase in:

- all benefits for accidents that occurred between April 1, 1985 and January 1, 1990, inclusive
- all temporary disability benefits for accidents that occurred on or after January 2, 1990
- all loss of earnings benefits for accidents that occurred on or after January 1, 1998
- all future economic loss (FEL) supplements, and
- all monthly survivors' benefits for deaths that occurred on or after April 1, 1985.

The following benefits will be eligible for the new tax rates **only** if the payment starts on or after July 1, 2000:

- FEL benefits, and
- FEL benefits affected by a material change.

Benefits not affected

The following benefits are **not** affected by these tax cuts:

- all benefits (including monthly survivors' benefits) for accidents before April 1, 1985
- Bill 165 benefits (s.147(14)—$200 payment)
- Bill 162 Old Age Supplement (OAS) benefits
- non-economic loss (NEL) benefits
- FEL benefits (including FEL benefits affected by a material change) if the payment start date is **prior to** July 1, 2000
- lump sum payments made to dependants, and
- burial benefits.

The WSIB will notify, in writing, all workers or dependants whose benefits are affected by the tax cuts.

*

1 Benefits paid for accidents or occupational diseases occurring before April 1, 1985 are based on 75% of an injured worker's pre-injury gross earnings.

2 Benefits paid for accidents or occupational diseases occurring on or after April 1, 1985 and before January 1, 1998 are based on 90% of an injured worker's NAE.

3 Benefits paid for accidents or occupational diseases occurring on or after January 1, 1998 are based on 85% of an injured worker's NAE.

Highlights of approved policies

Industrial Maintenance and Repair Contracting

The WSIB has revised policies in the Employer Classification Manual (ECM) regarding the business activity of industrial maintenance and repair (IMR). By adding a new classification unit (CU) G-707-05 (4259-000)—Industrial Maintenance and Repair Contracting, the WSIB now distinguishes between two kinds of IMR in the classification scheme.

Service Contracts vs. One-off

The first kind of IMR is described in the new CU and includes service contracts in which the contractor agrees to maintain (and/or, when necessary, repair) equipment for a "specified duration," (e.g., six months, one year, etc). The contract may stipulate a lump sum payment for the period, or the payment may be tied to the frequency and/or nature of the IMR. A "specified duration" can be any length of time as long as the duration is clearly specified in the contract and the service does not fall under the "one-off" category.

Example: Service Contract

A steel manufacturer wants around-the-clock maintenance and repair available on its industrial plant machinery for two years. The bidders include a manufacturer of industrial machinery with a D-403-03 classification, and a machinery wholesaler classified in F-670-01, both of whom perform IMR, as well as a plumbing contractor in G-707-02. In bidding on the contract, all three employers take into account that if they win the contract, the labour involved will be classified in G-707-05 and not the company's usual CU.

"One-off" IMR, on the other hand, is a contract or verbal agreement to perform IMR on a piece of machinery or equipment once only. No further maintenance or repair (except for warranty tied to a repair) is included in the agreement. This kind of IMR is excluded from G-707-05 and remains classified in the CU that has always included maintenance and repairs to the particular machinery or equipment in question.

Example: One-off

The same manufacturer has a breakdown in a smelting unit. The repair must be done immediately. The manufacturer contacts the same three employers as in the first example to get quotes. The three employers provide quotes on the basis that the work will be classified in the same CU as their main business activity.

Competitive inequities reduced

Service contracts are frequently bid on by employers whose usual business activities are classified in different rate groups, sometimes with widely varying premium rates. Before the WSIB implemented these revisions, employers priced the service contracts according to the premium rate for their main business activity. This created competitive inequities among the bidding employers for the same kind of work. A standard CU for service contracts should eliminate inequities in this area.

Special operation: Millwrighting and Rigging

IMR on large-scale industrial plant machinery and other large-scale machinery or equipment may involve millwright and rigging work in order to dismantle and re-install the parts intended for IMR. As a special operation under Ontario Regulation 175/98, this dismantling and re-installing work is always considered a separate business activity, and is classified in G-737-01 (4255-000)—Millwright and Rigging Work.

The requirement to segregate large-scale dismantling and re-installation work applies to both IMR service contracts and to one-off IMR. If the labour for millwrighting and rigging is not segregated from the IMR itself, the entire aggregated payroll (including the millwrighting and rigging) is classified in the CU with the highest premium rate.

Once the items to be maintained or repaired are dismantled, and providing that the payrolls are properly segregated, IMR on the items is classified in whatever CU applies to this kind of IMR, (i.e., service contract or one-off). This is true whether the IMR is performed on-site or in an off-site machine shop.

Loss of Retirement Income Benefit (18-03-06)

After a worker has received loss of earnings (LOE) benefits for 12 continuous months, the WSIB sets aside an amount equal to five percent of every subsequent LOE payment to replace the worker's lost retirement income. In addition to the WSIB's mandatory contribution, the worker may elect to voluntarily contribute five percent from every LOE benefit payment made after the 12-month mark.

The WSIB's mandatory contribution and the injured worker's voluntary contribution, if any, are deposited into a fund and invested. The loss of retirement income (LRI) benefit becomes payable when the worker reaches age 65, or upon the worker's death, whichever comes first.

The policy and guidelines mirror Regulation O.Reg. 562/99 of the Act and further explain:

- how the LRI benefit will be paid out, depending on which one of the three payment schemes the worker selects
- that indexing the benefit only affects how the benefit is distributed over the payment period (i.e., increasing the amount of the later payments decreases the amount of the earlier payments), and
- that the rules governing the payment of benefits prior to age 65 depend on whether the worker's death was work-related or not, and whether the worker made voluntary contributions.

Retroactive Adjustments (14-02-06)

The WSIB has revised the policy on Retroactive Adjustments, now called Employer Premium Adjustments. For a copy of the revised policy visit the WSIB website—http://www.wsib.on.ca.

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2000 Indexation of allowances paid to severely impaired workers

The payment rates for some of the benefits and expenses paid by the WSIB are not specifically referred to in the Act and therefore, must be regularly set and adjusted (i.e., maximum burial rate, mileage, meals, witness fees, escort fees, independent living allowance).

Rate changes for several allowances paid to severely injured workers have been approved for this year. The new rates do not apply to allowances that are processed in 2000 but are being paid for time periods prior to January 1, 2000.

Benefit	1999 Rate
Independent Living Allowance	$2828/year
Personal Care Allowance	Skilled Rate: $15.25/hour Personal Rate: $9.53/hour *Basic/Supervisory Rate: $6.85/hour (*set at minimum wage)
Guide Dog Allowance	$766.08/year

Benefit	2000 Rate
Independent Living Allowance	$2893.04/year
Personal Care Allowance	Skilled Rate: $15.60/hour Personal Rate: $9.74/hour *Basic/Supervisory Rate:$6.85/hour (*no change to minimum wage)
Guide Dog Allowance	$783.69/year

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