

Client Services Policy Manual

Policy Number: **ES-03**
Subject: **Classification of Employer's Operations**
Chapter: **Employer Services**

Policy Statement WorkplaceNL assigns every employer to an industry classification based upon the description of their business activity. For assessment purposes, employers are classified into a Newfoundland Industrial Classification (NIC) code based on their primary industrial undertaking.

Unlike Rate Setting (covered under policy ES-08) which applies to industry groups, Classification of Employer's Operations applies to individual employers.

Definitions

Newfoundland Industrial Classification (NIC) Code: Refers to the four digit numerical coding system used to classify the different economic activities conducted in the province of Newfoundland and Labrador. WorkplaceNL assigns each employer to a NIC code to identify the primary industrial undertaking of the employer and corresponding assessment rate.

Industry Group: The level of grouping into which WorkplaceNL classifies all NIC codes, based on the degree of similarity of business activities and/or claims cost experience.

WorkplaceNL Error: If WorkplaceNL failed to appropriately classify when all of the relevant information was provided by the employer.

Distinct Change: A distinct change occurs when a firm undertakes a new and unrelated business activity.

Evolutionary Change: An evolutionary change in a firm's operations means enhancement, expansion, or contraction of its original primary industrial undertaking.

Inadvertent Representation: This occurs when an employer inadvertently provides false or incomplete information to WorkplaceNL which results in an incorrect NIC code being assigned.

Assessment Fraud: This occurs when an employer deliberately misrepresents its operations to WorkplaceNL. Misrepresentation can be through deliberate omission of information, provision of false information, or words which, through reasonable interpretation, do not accurately reflect the firm's operations. Depending on the circumstances, the case may be referred for criminal prosecution.

General

Employers are responsible for providing a complete and accurate description of their business activity to WorkplaceNL. It is WorkplaceNL's

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role to ensure the classification of employers into NIC codes is applied in a fair and consistent manner, based on the information obtained.

The NIC code encompasses all work incidental to the production of goods and services provided. Incidental is where an operation, regardless of whether separated by location or payroll, exists to service the primary industry of the firm. This includes management, administration, marketing, accounting and all other functions which are supportive of, incidental to, and/or integral to the employer's business activity. WorkplaceNL also considers activities that are contracted out when determining the industry classification assigned to an employer. The fact that an employer contracts out parts of an industry to other employers does not preclude an employer from being classified in that industry. NIC codes are not based on occupations.

WorkplaceNL does not take the individual employer's level of risk or perceived level of risk, claim experience or accident cost history into account when classifying the employer's business activity.

Multiple Classifications

Separate classifications are allowed on the basis of industrial undertaking, but not on the basis of occupation of the workers or physical locations. The following criteria must be met before assigning an employer to more than one classification:

1. Each operation must be separate and independent from the other(s), for example, not incidental to another operation and performed by specific personnel as their sole function;
2. Separate payroll records must be maintained for each operation; and
3. Each operation must generate its own revenue independently of each other.

Firms which do not qualify for multiple classifications are those with more than one business activity and staff who intermingle between the business activities (i.e., working between these multiple business activities). The highest rated classification is used for such firms.

Where a firm's operations are an inescapable part of another firm's operations (i.e., sales, administration, management, etc.), the firm's NIC code is the same as the other firm regardless of ownership.

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Proration for Firms which Qualify for Multiple Classification

Earnings of workers, e.g., office staff and management performing work for all operations, who perform a service for an employer assigned to more than one classification, are pro-rated based on payroll among each classification.

Proration Example

Trucking and Convenience Store With Office Staff Performing Work for Both Operations

The office staff payroll is assessed as follows:

$$\frac{\text{Office Staff Payroll (divided by)}}{\text{Total payroll for transportation and convenience store}} \times \text{Transportation Payroll} = \text{Portion of office payroll assessed at transportation classification rate}$$

$$\frac{\text{Office Staff Payroll (divided by)}}{\text{Total payroll for transportation and convenience store}} \times \text{Convenience Store Payroll} = \text{Portion of office payroll assessed at convenience store classification rate}$$

Effective Date of Multiple Classification

The following table assists in determining the effective date of a multiple classification. Definitions for the column "Reason for Multiple Classification or Removal of Multiple Classification" are provided in this policy's definitions section.

Reason for Multiple Classification or Removal of Multiple Classification	Effective Date of Classification Change	
	Relevant prior years (up to a maximum of 5 years)	January 1st of year WorkplaceNL becomes aware
WorkplaceNL Error	✓	
Distinct Change		✓
Evolutionary Change		✓
Inadvertent Representation		✓
Assessment Fraud	✓	

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Classification Changes

Employers are responsible for notifying WorkplaceNL of any changes in their business activities for rate review purposes. Annually, WorkplaceNL provides notification to employers of their NIC code and assessment rate for the following year. The Annual Employer Statement package is also sent requesting employers to indicate any changes in their business description.

Effective Date of Classification Change if an Assessment Rate Increases

The following table assists in determining the effective date of a change in classification resulting in an increased assessment rate. Definitions for the column “Reason for Change in Classification” are provided in this policy’s definitions section.

Reason for Change in Classification	Actual Date of Change in Employer's Operations	Effective Date of Classification Change			
		Relevant prior years (up to a maximum of 5 years)	January 1st of year prior to year WorkplaceNL becomes aware	January 1st of year WorkplaceNL becomes aware	January 1st of year after WorkplaceNL becomes aware
WorkplaceNL Error	Current Year				✓
	Prior Year(s)				✓
Distinct Change	Current Year			✓	
	Prior Year(s)		✓		
Evolutionary Change	Current Year				✓
	Prior Year(s)				✓
Inadvertent Representation	Current Year			✓	
	Prior Year(s)		✓		
Assessment Fraud	Current Year			✓	
	Prior Year(s)	✓			

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Effective Date of Classification Change if an Assessment Rate Decreases

The following table assists in determining the effective date of a change in classification resulting in a decreased assessment rate. Definitions for the column “Reason for Change in Classification” are provided in this policy’s definitions section.

Reason for Change in Classification	Actual Date of Change in Employer's Operations	Effective Date of Classification Change			
		Relevant prior years (up to a maximum of 5 years)	January 1st of year prior to year WorkplaceNL becomes aware	January 1st of year WorkplaceNL becomes aware	January 1st of year after WorkplaceNL becomes aware
WorkplaceNL Error	Current Year			✓	
	Prior Year(s)	✓			
Distinct Change	Current Year			✓	
	Prior Year(s)		✓		
Evolutionary Change	Current Year			✓	
	Prior Year(s)		✓		
Inadvertent Representation	Current Year			✓	
	Prior Year(s)		✓		
Assessment Fraud	Current Year			✓	
	Prior Year(s)			✓	

Exceptional Circumstances

In cases where the individual circumstances of a case are such that the provisions of this policy cannot be applied, or to do so would result in an unfair or unintended result, WorkplaceNL will decide the case based on its individual merits and justice. Such a decision will be considered for that specific case only and will not be precedent setting.

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Reference: *Workplace Health, Safety and Compensation Act, 2022, Sections 115 and 116.
Policy ES-08 "Rate Setting".*

Amendment History

<i>Original Effective Date</i>	1988 11 24
<i>Revision #1</i>	2012 04 04