

## **GROUPING OF RELATED ENTITIES FOR WORKERS COMPENSATION PURPOSES**

### **FREQUENTLY ASKED QUESTIONS**

#### **What is meant by employer grouping?**

Grouping for workers compensation purposes means that the experience adjustment factor (S factor) of the premiums of related employers is calculated using the combined basic tariff premium of the group.

#### **Why is grouping being introduced?**

In 2002, the NSW Government appointed special advisers to make recommendations on measures to substantially improve employer compliance with workers compensation and pay-roll tax provisions. The advisers' final report *Review of Employer Compliance with Workers Compensation Premiums and Pay-roll Tax in NSW* included recommendations to group related entities for workers compensation purposes with the aim of improving the level of employer compliance and giving businesses the opportunity to compete equally.

#### **Who will be grouped?**

Employers that are related entities where the combined wages of the group are greater than \$600,000.

#### **What is meant by related entities?**

Grouping of related entities for workers compensation purposes is similar to that for pay-roll tax and is based on part 10A of the *Tax Administration Act 1996*.

#### **My business is a part of a group what must I do now?**

You will need to complete a *Registration for Grouping* form and return it to WorkCover. Your details will be entered on to a database and you will be issued with a group number. All other members of your group must also complete a registration form and they will be issued with an identical group number.

WorkCover will write to both you and your Scheme Agent and advise the group number and the details of other employers that are members of the group. *Registration for Grouping* forms can be obtained from the WorkCover website [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) or by contacting the WorkCover Assistance Service on **13 10 50**.

#### **Why must all group members hold their policies with the same Scheme Agent and have a common renewal date?**

If the policies do not share a common renewal date and are not held with the same Scheme Agent, it is not possible for the Agent to accurately calculate the group premium. This includes any changes for one member of the group, which will affect the premium for the entire group.

#### **Can the group choose any date as the common renewal date?**

Initially, as a transitional measure to assist in the implementation of grouping and ensure that employers are grouped as soon as possible after the commencement of the legislation on 30 June 2006, all group members must ensure that their policies have a common renewal date that aligns with the commencement or renewal date for a policy in the group that occurs first on or after 30 June 2006.

#### **What if the first date renewal date for the group after 30 June 2006 is not the preferred renewal date for the group?**

If this is not a suitable renewal date for the group, all group members can organise with the Scheme Agent to short-term their policies to the preferred common renewal date.

### **Will there be any penalties for short-terming to align policies for grouping?**

There may be changes to premiums depending on a number of factors associated with short-terming policies. Employer's entitlement to pay their premiums by instalments and/or the number of instalments they can have may also be affected. Employers should contact their Scheme Agent for more information on how short-terming their policy will affect them.

### **Our group members are engaged in a range of different industries and a different WorkCover Industry Classification applies to each of the policies. After grouping is introduced will all of the policies need to have the same industry classification?**

No. As long as the businesses are considered separate and distinct in line with current provisions, the classification that most accurately reflects the predominant business activity of the employer in the group will apply to each individual employer in the group.

### **Many of our group companies have multi-tariff policies. Will they still be able to do so under the grouping arrangements?**

Yes. If employers within the group carry out separate and distinct business activities under a single policy multiple tariffs can be allocated to the policy.

### **I am a member of a group of companies that has a combination of small and medium sized employers. How will grouping affect my group?**

For grouping purposes all employers within the group will have their premiums experience adjusted. Although the premiums of small employers are generally not experience adjusted for the employer's cost of claims, any small employer who is a member of a group will have their claims taken into account, which will have an impact on their premiums. The aim of this is to deter groups from undertaking such activities as company splitting and creating multiple small employers to deliberately avoid experience premiums arising out of the cost of claims for these employers.

### **What will happen if one of the members of the group ceases trading and closes down?**

The wages and any claims cost history for the group member that has closed will be proportionally allocated to the other members of the group for both the current policy period and the two consecutive policy periods following the period in which the employer closed down.

### **Are there any caps in place that limit the impact of claims costs on an employer's premium depending how much the basic tariff premium is. How will this affect employers that are grouped?**

Yes, these are called maximum premium or T caps and apply as follows:

- where the basic tariff premium (T) is greater than \$10,000 and does not exceed \$50,000, the total premium cannot exceed one and a half times the basic tariff premium
- where the basic tariff premium is equal to or greater than \$50,000 and less than \$150,000, the total premium cannot exceed two times the basic tariff premium
- where the basic tariff premium is equal to or greater than \$150,000 and less than \$300,000 the total premium cannot exceed two and a half times the basic tariff premium.

For employers that are grouped the T cap that applies to the employer's policy will be based on the basic tariff premium for the group.

### **Are there any caps on premium increases that result from grouping?**

Yes, transitional provisions have been introduced which mean that premium increases as a result of grouping are limited to 25 per cent per year in the first year, 50 per cent in the second year and 75 per cent in the third year. The cap applies to increases for each individual employer member of the group.

### **Are charities exempt from grouping?**

Charities and other not-for-profit organisations will be able to apply to WorkCover for exclusion from grouping status for those group members not in direct competition with for-profit businesses.

The employer will need to complete an *Application for Exclusion from Grouping* form. The form can be obtained from the WorkCover website [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) or by contacting the WorkCover Assistance Service on 13 10 50.

**What are the procedures for excluding a not-for-profit employer from a group?**

Employers need to complete the *Application for Exclusion from Grouping* form and will also need to provide evidence that they are a not-for-profit employer by providing documentary evidence such as their constitution and letter of endorsement from the Australian Taxation Office.

Employers who apply for exclusion will also need to show that they do not compete with the private sector. These employers should provide information about such things as the goods and services they provide, the target market, sources of funding as well as details of other employers in the same area who provide the same goods and services.

Once all of the required information is received WorkCover will determine whether a not-for profit employer can be excluded from a group within 30 days. WorkCover will provide the results of the determination in writing to the employer and to the employer's Scheme Agent.

**Are there any other grounds for exclusion from a group other than not-for-profit employers who do not compete with the private sector?**

Yes, employers can also apply for exclusion from a group in the following cases:

- primary groups arising from the use of common employees
- an employer who carries on a business as a trustee of a trust.

Employers wishing to apply for exclusion from Grouping for either of these reasons must obtain and complete an *Application for Exclusion from Grouping* form. Once all necessary information has been received, WorkCover will make a determination within 30 days. WorkCover will provide the results of the determination in writing to the employer and to the employer's Scheme Agent.