



B U L L E T I N

December 29, 2009

*Contact: Mr. Richard Kaefer
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R.C. 2223

To: The Members of the Board

**RE: New York Workers Compensation & Employers Liability Manual
Payroll Limitation Program – Note Amendment
Issue Date: January 1, 2010**

In accordance with authorizations of the New York Compensation Insurance Rating Board's Underwriting Committee, and approval by the New York State Insurance Department, we hereby issue revised language regarding an eligible classification code for the Payroll Limitation Program, which is contained on page R-36 of the New York Workers Compensation and Employers Liability Manual. These changes have an issue date of January 1, 2010.

The Rating Board recently identified that Rule V, Note (6) of the NY WC & EL Manual, should indicate that employees who perform shop work or driving are eligible for payroll limitation if they are assigned to an eligible classification code. The 'note' shown on this page did not reflect or include these individuals in these instances. This amendment now correctly states the inclusion of these individuals.

Attached is a copy of the amended page R-36 of the NY WC & EL Manual. This amendment is also included in an updated version of the New York Workers Compensation & Employers Liability Manual which is available via our website at: www.nycirb.org.

Very truly yours,

Monte Almer

President

WVT:tg
Encl.

Note:

- (1) Actual weekly payroll per employee must be used to determine the limited payroll for those construction classifications subject to this rule. Payroll from construction of one or two-family residential housing must be excluded from the employee 's weekly payroll prior to the application of any payroll limitation required by this rule.
- (2) If an employer does not provide sufficient employee payroll records necessary to segregate residential from commercial employments, no payroll limitation shall apply.
- (3) An employee 's weekly earnings for payroll limitation purposes shall be assigned to the territory in which the majority of the week 's work was performed.
- (4) If an employer whose employees perform work in more than one geographic territory, as defined in the "Miscellaneous Values" in Part Three-Loss Costs, is unable to provide sufficient employee payroll records necessary to identify employee payrolls by territory, all payroll will be assigned to the territory with the next highest premium differential to that of the employer 's home office or New York base of operations.

Exception: In any case in which investigation of a specific job discloses that it was performed in the territory with the highest premium differential, all payroll shall be assigned to that territory.

- (5) Employee payroll earned from work performed outside of New York State and utilized as New York payroll for premium determination purposes shall be assigned to the territory in which the home office or New York base of operations of the employer is located and will be subject to payroll limitation.
- ★ (6) Employees who perform shop work or driving are eligible for payroll limitation under this rule as long as such employees are included under the eligible classifications subject to "Payroll Limitation."
- (7) Refer to Section I of the Digest of Rulings and Interpretations for examples, as well as commonly asked questions and answers regarding payroll limitation.

4. Partial Week

A part of a week shall be treated as a full week in determining an employee 's weekly pay for limitation purposes.