BRIAN SANDOVAL
Governor

STATE OF NEVADA

BRUCE H. BRESLOW
Director

BARBARA D. RICHARDSON
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE
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September 19, 2016

Rick Combs, Director
State of Nevada Legislative Counsel Bureau
Legislative Building
401 S. Carson Street
Carson City, NV 89701-4747

Via e-mail: director@lcb.state.nv.us

Re: Industrial Insurance – NCCI Revisions to Basic Manual Rule 1 – Classification – and Rule 2 – Premium Basis and Payroll Allocation

Dear Director Combs:

Pursuant to NRS 686B.177, the Nevada Division of Insurance is required to "report any changes in rates or in the Uniform Plan for Rating Experience, the Uniform Statistical Plan or the Uniform System of Classification" to the Director of the Legislative Counsel Bureau.

Enclosed, please find a PDF copy of the entirety of the recently approved filing made by the National Council on Compensation Insurance, Inc. ("NCCI"), with NCCI tracking number B-1433 and Nevada State tracking number 63193.

Per NCCI's description, "This item clarifies and enhances NCCI's *Basic Manual for Workers' Compensation and Employers' Liability Insurance* (Basic Manual) Rule 1 – Classification Assignment and Rule 2 – Premium Basis and Payroll Allocation." The major intent of the filing is to modernize and clarify the wording of various rules. NCCI has noted that some employers may see a negligible premium change. My review of this filing has not discerned any potential for significant adverse impacts.

With regard to Nevada-specific revisions, my discussions with NCCI have helped to clarify the treatment of expense reimbursements to employees who are traveling when the employer does not maintain verifiable receipts for incurred expenses. NCCI has proposed to apply its new national rule 2-B-1-p to the definition of payroll for Nevada as well: "*When it can be verified that the employee was away from home overnight on the business of the employer, but the employer did not maintain verifiable receipts for incurred expenses, a reasonable expense allowance is permitted to be excluded. The allowance is limited to a maximum of $75 per day. The remaining non-verifiable expenses are included as payroll*." In response to my requests, NCCI reached out to several workers' compensation carriers and determined that the impact of applying this exception threshold in Nevada would not be material in terms of how much payroll is utilized for calculating workers' compensation premiums – especially since some carriers already use the national exception threshold in practice. However, applying the national rule 2-B-1-p could help to streamline carriers' operations by providing for consistency across states in the application of this exception threshold to the definition of payroll. This exception threshold appears to be consistent with the definition of "Payroll" in NAC 616A.200 and resolves a long-standing ambiguity in NCCI's former Nevada-specific rules about whether such a modest exception threshold would apply when computing payroll in Nevada. Any impact on Nevada employers' premiums from this change, although quite modest and likely negligible, would be in a favorable direction.

If you have any questions or desire additional information, please feel free to contact me via e-mail at gstolyarov@doi.nv.gov.

Sincerely,



Mr. Gennady Stolyarov II, ASA, ACAS, MAAA, CPCU, ARe, ARC, API, AIS, AIE, AIAF
Lead Actuary, Property and Casualty Insurance, Nevada Division of Insurance

cc: Barbara D. Richardson, Commissioner of Insurance
Nick J. Stosic, Insurance Regulation Liaison
Rajat Jain, Chief Insurance Examiner, Property & Casualty Section
Erin Summers, Insurance Actuarial Analyst II, Property & Casualty Section

State: *Nevada* ***Filing Company:*** *NCCI*
TOI/Sub-TOI: *16.0 Workers Compensation/16.0004 Standard WC*
Product Name: *B-1433 Revisions to Basic Manual Rule 1 - Classification Assignment and Rule 2 - Premium Basis and Payroll Allocation*
Project Name/Number: */*

Filing at a Glance

Company:	NCCI
Product Name:	B-1433 Revisions to Basic Manual Rule 1 - Classification Assignment and Rule 2 - Premium Basis and Payroll Allocation
State:	Nevada
TOI:	16.0 Workers Compensation
Sub-TOI:	16.0004 Standard WC
Filing Type:	Rule
Date Submitted:	08/09/2016
SERFF Tr Num:	NCCI-130670456
SERFF Status:	Closed-Approved
State Tr Num:	63193
State Status:	Approved
Co Tr Num:	B-1433
Effective Date Requested (New):	10/01/2017
Effective Date Requested (Renewal):	10/01/2017
Author(s):	Lesley O'Brien, Alison Herwig, Frank Gnolfo, Carolyn Pearl, Robert Dalton, Karen Jones, Miguel Joubert, Jessica Epley
Reviewer(s):	Gennady Stolyarov (primary), Erin Summers
Disposition Date:	09/13/2016
Disposition Status:	Approved
Effective Date (New):	
Effective Date (Renewal):	

State Filing Description:

State: *Nevada* ***Filing Company:*** *NCCI*
TOI/Sub-TOI: *16.0 Workers Compensation/16.0004 Standard WC*
Product Name: *B-1433 Revisions to Basic Manual Rule 1 - Classification Assignment and Rule 2 - Premium Basis and Payroll Allocation*
Project Name/Number: */*

General Information

Project Name:
Project Number:
Reference Organization:
Reference Title:
Filing Status Changed: 09/13/2016
State Status Changed: 09/13/2016
Created By: Frank Gnolfo
Corresponding Filing Tracking Number:
State TOI: 16.0 Workers Compensation

Status of Filing in Domicile:
Domicile Status Comments:
Reference Number:
Advisory Org. Circular:
Deemer Date:
Submitted By: Frank Gnolfo
State Sub-TOI: 16.0004 Standard WC

Filing Description:

This item clarifies and enhances NCCI's Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual) Rule —Classification Assignment and Rule 2—Premium Basis and Payroll Allocation.

Company and Contact

Filing Contact Information

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Filing Company Information

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901 Peninsula Corporate Circle
Boca Raton, FL 33487
(561) 893-3186 ext. [Phone]

CoCode:
Group Code:
Group Name:
FEIN Number: 65-0439698

State of Domicile: Florida
Company Type:
State ID Number:

Filing Fees

Fee Required? Yes
Fee Amount: $25.00
Retaliatory? No
Fee Explanation: Rule
Per Company: Yes

Company	Amount	Date Processed	Transaction #
NCCI	$25.00	08/09/2016	112274228

SERFF Tracking #:	*NCCI-130670456*	***State Tracking #:***	*63193*	***Company Tracking #:***	*B-1433*

State:	*Nevada*	***Filing Company:***	*NCCI*
TOI/Sub-TOI:	*16.0 Workers Compensation/16.0004 Standard WC*		
Product Name:	*B-1433 Revisions to Basic Manual Rule 1 - Classification Assignment and Rule 2 - Premium Basis and Payroll Allocation*		
Project Name/Number:	*/*		

Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Approved	Gennady Stolyarov	09/13/2016	09/13/2016

Objection Letters and Response Letters

Objection Letters

Status	Created By	Created On	Date Submitted
Pending Industry Response	Gennady Stolyarov	08/17/2016	08/17/2016

Response Letters

Responded By	Created On	Date Submitted
Robert Dalton	09/13/2016	09/13/2016

SERFF Tracking #:	*NCCI-130670456*	***State Tracking #:***	*63193*	***Company Tracking #:***	*B-1433*

State:	*Nevada*	***Filing Company:***	*NCCI*
TOI/Sub-TOI:	*16.0 Workers Compensation/16.0004 Standard WC*		
Product Name:	*B-1433 Revisions to Basic Manual Rule 1 - Classification Assignment and Rule 2 - Premium Basis and Payroll Allocation*		
Project Name/Number:	*/*		

Disposition

Disposition Date: 09/13/2016

Effective Date (New):

Effective Date (Renewal):

Status: Approved

Comment:

Rate data does NOT apply to filing.

Schedule	Schedule Item	Schedule Item Status	Public Access
Supporting Document	Authorization Letter		Yes
Supporting Document	Filing Fees		Yes
Supporting Document	Filing Memorandum		Yes
Supporting Document	Workers' Compensation Rate Filing/Loss Costs Expense Worksheet		Yes
Supporting Document	Response to the 8-17-16 Objection		Yes
Rate	Exhibit 1		Yes
Rate	Exhibit 2		Yes
Rate	Exhibit 3		Yes
Rate	Exhibit 4		Yes
Rate	Exhibit 5		Yes
Rate	Exhibit 6		Yes
Rate	Exhibit 7		Yes
Rate	Exhibit 8		Yes
Rate	Exhibit 9		Yes
Rate (revised)	Exhibit 10		Yes
Rate	Exhibit 10		Yes
Rate	Exhibit 11		Yes
Rate	Exhibit 12		Yes

State: Nevada **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1433 Revisions to Basic Manual Rule 1 - Classification Assignment and Rule 2 - Premium Basis and Payroll Allocation
Project Name/Number: /

Objection Letter

Objection Letter Status	Pending Industry Response
Objection Letter Date	08/17/2016
Submitted Date	08/17/2016
Respond By Date	09/17/2016

Dear Maggie Karpuk,

Introduction:

Thank you for your filing submission. Review of this filing has given rise to the requests in the attached PDF file, which are intended to give the Division insight into the possible Nevada-specific impact of one area of changes within this filing in particular.

Conclusion:

This filing will be closed if no response is received within 30 days. If you have any questions, please feel free to contact me by phone or e-mail.

Mr. Gennady Stolyarov II, ASA, ACAS, MAAA, CPCU, ARe, ARC, API, AIS, AIE, AIAF
Lead Actuary, Property and Casualty Insurance
Nevada Division of Insurance
E-mail: gstolyarov@doi.nv.gov

Sincerely,
Gennady Stolyarov

Items of Concern on NCCI Filing 63913
Filing B-1433: Revisions to Basic Manual Rule 1 – Classification Assignment and Rule 2 – Premium Basis and Payroll Allocation

Property and Casualty Section – Nevada Division of Insurance – August 17, 2016

Thank you for your filing submission. Review of this filing has given rise to the requests below, which are intended to give the Division insight into the possible Nevada-specific impact of one area of changes within this filing in particular.

Item 1. The Division requests clarification as to the reason why NCCI proposes to render inapplicable to Nevada the proposed exception to expense reimbursements considered part of payroll if the employer's records do not confirm that the expense was incurred as a valid business expense.

In the national Rule 2-B-1-p (Exhibit 7, page 2), the proposed exception wording is the following: "When it can be verified that the employee was away from home overnight on the business of the employer, but the employer did not maintain verifiable receipts for incurred expenses, a reasonable expense allowance is permitted to be excluded. The allowance is limited to a maximum of $75 per day. The remaining non-verifiable expenses are included as payroll."

In the Nevada-specific version of Rule 2-B-1-p (Exhibit 10 NV), the rule simply includes in payroll "Expense reimbursements to employees if the employer's records do not substantiate that the expense was incurred as a valid business expense."

Previously, the language of Rule 2-B-2-h, which was not modified for Nevada, still contained the prior allowance of $30 per day of expenses that could be excluded from payroll if the employer's records do not confirm that the expense was incurred as a valid business expense. However, that specific exception language is proposed to be deleted in this filing (Exhibit 7, page 3).

In previous correspondence with NCCI on this subject, I noted that a technical reading of the previous Rule 2-B-2-h could still have rendered the $30 exception threshold applicable to Nevada, since having it in place once would be enough for it to be effective.

What was unclear in the course of my research of the history of these rules in Nevada is what was intended by the Nevada-specific modification to Rule 2-B-1-p. That is, was the "Exception" language removed simply to avoid redundancy (in recognition that it *would* still remain in Rule 2-B-2-h)? Or, alternatively, was it desired to remove the exception's applicability to Nevada altogether? I researched our record of relatively recent NCCI filings (since 2008) and did not find any filing that addressed this matter. Also, I noticed that both the national Basic Manual provisions and the Nevada-specific language for these rules are identified as being effective July 1, 2001 – so it is likely that, if a substantive decision on this matter was made for Nevada, it was made prior to that time. I looked within the Division's opinion files and other historical records to see whether the question of expense allowances being excluded from payroll has been addressed in any prior official correspondence. I could not find any record of this issue being addressed.

I note that the definition of "Payroll" in NAC 616A.200 – http://leg.state.nv.us/NAC/NAC-616A.html#NAC616ASec200 – appears to be silent on the question of expenses related to the business of the employer and any deemed expense allowances in the absence of documentation.

Hence, the Division poses the following requests:

(i) What was NCCI's original rationale for removing in Nevada the nationwide dollar-amount threshold for expenses that could not be confirmed from the employer's records as valid business expenses, but which could still be excluded from payroll? What statutes, regulations, bulletins, and/or prior discussions with regulators were used to justify removing this exception threshold from Rule 2-B-1-p?

(ii) Was the removal of the exception threshold from Rule 2-B-1-p in the past motivated by the desire to avoid redundancy (since the threshold was present in Rule 2-B-2-h), or by a desire to substantively remove the exception threshold in Nevada?

(iii) In practice, was any such exception threshold historically applied in Nevada to determine whether expense reimbursements to employees are considered part of payroll? In other words, would the combination of removing the exception language from Rule 2-B-2-h *and* not including the exception language in the Nevada-specific Rule 2-B-1-p substantively alter the definition of payroll applied in practice in Nevada?

Sincerely,



Mr. Gennady Stolyarov II, ASA, ACAS, MAAA, CPCU, ARe, ARC, API, AIS, AIE, AIAF
Lead Actuary, Property and Casualty Insurance, Nevada Division of Insurance

SERFF Tracking #:	NCCI-130670456	**State Tracking #:**	63193	**Company Tracking #:**	B-1433

State:	Nevada	**Filing Company:**	NCCI
TOI/Sub-TOI:	16.0 Workers Compensation/16.0004 Standard WC		
Product Name:	B-1433 Revisions to Basic Manual Rule 1 - Classification Assignment and Rule 2 - Premium Basis and Payroll Allocation		
Project Name/Number:	/		

Response Letter

Response Letter Status	Submitted to State
Response Letter Date	09/13/2016
Submitted Date	09/13/2016

Dear Gennady Stolyarov,

Introduction:

Response 1

Comments:

Attached is the response to the 8-17-16 objection and the revised Exhibit 10.

Changed Items:

Supporting Document Schedule Item Changes	
Satisfied - Item:	Response to the 8-17-16 Objection
Comments:	
Attachment(s):	B-1433 NV Interrogatory Response.pdf

No Form Schedule items changed.

Rate Schedule Item Changes					
Item No.	**Exhibit Name**	**Rule # or Page #**	**Rate Action**	**Previous State Filing Number**	**Date Submitted**
1	Exhibit 10	Rule 2	Replacement	B-1369	09/13/2016 By: Robert Dalton
Previous Version					
1	*Exhibit 10*	*Rule 2*	*Replacement*	*B-1369*	*08/09/2016 By: Frank Gnolfo*

Conclusion:

Sincerely,
Robert Dalton

State: Nevada **Filing Company:** NCCI
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1433 Revisions to Basic Manual Rule 1 - Classification Assignment and Rule 2 - Premium Basis and Payroll Allocation
Project Name/Number: /

Rate/Rule Schedule

Item No.	Schedule Item Status	Exhibit Name	Rule # or Page #	Rate Action	Previous State Filing Number	Attachments
1		Exhibit 1	Rule 1	Replacement	B-1369	B-1433 Exhibit 1.pdf
2		Exhibit 2	Rule 1	Replacement	B-1399	B-1433 Exhibit 2.pdf
3		Exhibit 3	Rule 1	Replacement	B-1369	B-1433 Exhibit 3.pdf
4		Exhibit 4	Rule 1	Replacement	14865	B-1433 Exhibit 4.pdf
5		Exhibit 5	Rule 1	Replacement	B-1369	B-1433 Exhibit 5.pdf
6		Exhibit 6	Rule 1	Replacement	B-1369	B-1433 Exhibit 6.pdf
7		Exhibit 7	Rule 2	Replacement	B-1369	B-1433 Exhibit 7.pdf
8		Exhibit 8	Rule 2	Replacement	20584	B-1433 Exhibit 8.pdf
9		Exhibit 9	Rule 2	Replacement	B-1369	B-1433 Exhibit 9 NV.pdf
10		Exhibit 10	Rule 2	Replacement	B-1369	B-1433 Exhibit 10 NV (Revised).pdf
11		Exhibit 11	Rule 2	Replacement	B-1369	B-1433 Exhibit 11 NV.pdf
12		Exhibit 12	Rule 2	Replacement	B-1369	B-1433 Exhibit 12 NV.pdf

EXHIBIT 1
BASIC MANUAL—2001 EDITION
RULE 1—CLASSIFICATION ASSIGNMENT
B. EXPLANATION OF CLASSIFICATIONS
2. Standard Exception Classifications
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)
(Exhibit comment: All current state exceptions will continue to apply unless otherwise noted in the state-specific exhibits)

c. Salespersons or Collectors—Outside (Code 8742)

(1) This classification is assigned to employees who perform these duties away from the employer's premises.

(2) This ~~code~~ ~~excludes~~ classification is not assigned to employees who:

(a) - Deliver merchandise.

(b) - Use vehicles to deliver or pick up goods, even if they collect or sell. These employees must be assigned to the classification applicable to the business for drivers.

(c) - Use public transportation or walk to deliver goods even if they collect or sell. These employees must be assigned to the governing classification applicable to the business.

(d) Travel between locations of the employer as district or regional managers to perform various duties not involving outside sales or collection. *Refer to Rule 2-G—Interchange of Labor.*

(3) Code 8742 does not apply when the basic classification wording includes outside salespersons and/or collectors.

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EXHIBIT 2
BASIC MANUAL—2001 EDITION
RULE 1—CLASSIFICATION ASSIGNMENT
B. EXPLANATION OF CLASSIFICATIONS
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

3. General Inclusions

a. Some operations appear to be separate businesses but are included within all basic classifications. These are called general inclusions. These operations are not separately classified. They include the following:

(1) - Restaurants or cafeterias, stores, or day care services operated by the ~~insured~~ employer for employee use

Exception:

If these operations are conducted in connection with construction, erection, lumbering or mining operations, they must be separately classified.

(2) - Manufacture of containers by the ~~insured~~ employer, such as bags, barrels, bottles, boxes, cans, cartons or packing cases for sole use in the operations insured by the policy

(3) - Hospitals or medical facilities operated by the ~~insured~~ employer for its employees

(4) - Maintenance or repair of the ~~insured's~~ employer's buildings or equipment by the ~~insured's~~ employer's employees

(5) - Printing ~~or lithographing~~ by the ~~insured~~ employer on its own products, packaging, brochures, or promotional materials

b. Some employees may perform general inclusion duties for more than one basic classification. In such cases, *refer to Rule 2-G for classification treatment.*

~~**Exceptions:**~~

c. A general inclusion operation must be separately classified if any of the following conditions apply:

(1) - The operation is conducted as a separate and distinct business of the ~~insured~~ employer *(refer to Rule 1-D-3).*~~.~~

(2) - The operation is specifically excluded in the wording of the basic classification~~.~~

(3) - The principal business is described by a standard exception classification~~.~~

Refer to NCCI's ***User's Guide*** *for an example.*

4. General Exclusions

Some operations in a business are so unusual for the type of business described by the applicable basic classification, that they are separately classified even though the operations are not conducted as a secondary business. These are called general exclusions. They are:

a. - Aviation—all operations of the flying and ground crews

b. - New construction or alterations

c. - Stevedoring

d. - Sawmill operations

- ~~Employer operated day care service~~

Refer to NCCI's ***User's Guide*** *for an example.*

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EXHIBIT 2 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 1—CLASSIFICATION ASSIGNMENT
B. EXPLANATION OF CLASSIFICATIONS
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

5. Governing Classification

a. The ~~G~~governing ~~C~~classification at a specific job or location is the basic classification, other than a standard exception classification~~, that produces the greatest amount of payroll.~~

The governing classification is determined in accordance with the Governing Classification Determination Table.

Governing Classification Determination Table

If . . .	**Then the governing classification is the. . .**
A basic classification produces the greatest amount of payroll	Basic classification
A basic classification is applicable but no payroll is assigned	
Multiple basic classifications apply	Basic classification that is assigned the greatest amount of payroll
Multiple basic classifications apply but no payroll is assigned to any of the basic classifications	Basic classification that is the highest rated classification
A basic classification is not applicable	Standard exception classification that is assigned the greatest amount of payroll

~~If a basic classification is not applicable, the governing classification is the standard exception classification that produces the greatest amount of payroll.~~

b. The governing classification is used to determine the classification treatment of:

- Miscellaneous employees
- Local managers
- Executive officers who regularly engage in duties that are ordinarily performed by a superintendent, foreperson or worker

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EXHIBIT 3
BASIC MANUAL—2001 EDITION
RULE 1—CLASSIFICATION ASSIGNMENT
C. CLASSIFICATION WORDING
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

1. Classification Captions and Notes

The *caption* is the heading or title of ~~that precedes~~ the classification ~~itself and is part of the classification wording~~.

The *note* is the phrase that follows the caption~~classification and is part of the classification wording~~.

The classification wording as a whole, including the caption~~s~~ and note~~s~~, controls, restricts, or explains the classification usage. This wording is also referred to as the "phraseology."

Refer to NCCI's ***User's Guide*** *for an example.*

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EXHIBIT 4
BASIC MANUAL—2001 EDITION
RULE 1—CLASSIFICATION ASSIGNMENT
C. CLASSIFICATION WORDING
2. Words and Phrases
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

b. Clerical

Clerical means ~~clerical~~ office employees and telecommuters ~~and drafting employees~~ as defined in Rule 1-B-2-a.

~~Clerical includes clerical telecommuters as defined in Rule 1-B-2-a.~~

j. Stories in Height

Certain classification wording refers to "stories in height." A story is defined as ~~fifteen (15)~~ feet in height. It is measured from the lowest point above ground level to the highest point above ground level. ~~Some of these classifications are:~~

- ~~Code 5037—Painting:Metal Structures—Over Two Stories~~
- ~~Code 5059—Iron or Steel—Erection—Frame Structures Not Over Two Stories~~
- ~~Code 5645—Carpentry—Construction of Residential Dwellings Not Exceeding Three Stories in Height~~
- ~~Code 5403—Carpentry—Construction of Residential Dwellings Exceeding Three Stories in Height or Commercial Buildings and Structures~~

l. Separate and Distinct Business

Separate and distinct business means an additional operation of the employer that is not included in the basic classification on the policy. *Refer to the following:*

- *Rule 1-D-3 for the assignment of more than one basic classification*
- *Rule 3-A-5 for the combination of legal entities, locations, and operations on a single policy*

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EXHIBIT 5
BASIC MANUAL—2001 EDITION
RULE 1–CLASSIFICATION ASSIGNMENT
D. CLASSIFICATION PROCEDURES
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

3. Assignment of More Than One Basic Classification

More than one basic classification may be assigned to an ~~insured who~~ employer that meets conditions a, b, or c below. Operation means activities, enterprises, processes, secondary businesses or undertakings.

f. **Employee Leasing Firms, Labor Contractors, Professional Employer Organizations, and Temporary Labor Services**

(1) Workers assigned to clients must be classified the same as direct employees of the client performing the same or similar duties.

(2) If the client has no direct employees performing the same or similar duties, leased employees are classified as if they were direct employees of the client entity.

*Refer to NCCI's **User's Guide** for an example.*

5. Businesses Described by a Standard Exception Classification

If the principal business is described by a ~~S~~standard ~~E~~exception ~~C~~classification, the operations of all employees not included in the definition of ~~S~~standard ~~E~~exception ~~C~~classification must be assigned to the separate basic classification that most closely describes their operation.

This rule applies to both an employer's business within a state and to individual jobs or locations where the governing classification is described by a standard exception classification.

*Refer to NCCI's **User's Guide** for an example.*

6. Classifications Limited to Separate and Distinct Businesses

The assignment of certain classifications is limited by their classification notes to separate and distinct businesses. ~~because t~~The notes may describe an operation that frequently is an integral part of a business described by another classification.

*Refer to NCCI's **User's Guide** for an example.*

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EXHIBIT 6
BASIC MANUAL—2001 EDITION
RULE 1—CLASSIFICATION ASSIGNMENT
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IN, KS, KY, LA, MD, ME, MS, MT, NE, NH, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)
(Exhibit comment: All current state exceptions will continue to apply unless otherwise noted in the state-specific exhibits)

F. CHANGES OR CORRECTIONS IN CLASSIFICATIONS

1. Changes in classification due to changes in an ~~insured's~~ employer's operations will be applied as of the date the change in operations occurred.
2. Corrections in classifications that result in a *decrease* in premium, whether determined during the policy period or at audit, must be applied retroactively to the inception of the policy.
3. Corrections in classifications that result in an *increase* in premium~~,~~ must be applied as follows:

If the correction in classification is effective . . .	**Then the correction is applied . . .**
During the first 120 days of the policy term . . .	Retroactively to the inception of the policy.
After the first 120 days of the policy term, but before the final 90 days . . .	As of the date the company discovers the cause for that correction.
During the last 90 days of the policy term . . .	Only to a renewal policy, if any.

The effective date of change, for purposes of the time periods noted in the table above, is the date a carrier applies a classification change.

Exceptions to the table above:

a. If the correction in classification is the result of a misrepresentation or omission by the ~~insured~~ employer, its agents, employees, officers, or directors, then the correction must be applied from the date on which the change would have applied if such misrepresentation omission had not been made.

b. The above rules do not apply to the following types of operations; therefore, classifications are assigned and applied at any time during the term of the policy or at audit:

- Construction or erection ~~risks~~
- Employee leasing ~~firms~~
- Labor ~~contractors~~ contracting
- Temporary labor services
- Professional employer organizations (PEOs)
- Operations assigned to standard exception classifications
- General exclusions

4. For purposes of Rule 1-F the reallocation of payroll among classifications on the policy is not considered a change or correction in classification(s).

Refer to NCCI's ***User's Guide*** *for an example.*

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EXHIBIT 7
BASIC MANUAL—2001 EDITION
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)
(Exhibit comment: All current state exceptions will continue to apply unless otherwise noted in the state-specific exhibits)

A. PREMIUM BASIS

Premium is calculated on the basis of the total payroll paid or payable by the ~~insured~~ employer for services of ~~individuals~~ employees who could receive workers compensation benefits for work-related injuries as provided by the policy. Some classifications may have a different premium basis; *refer to NCCI's* ***User's Guide*** *for examples.*

~~Exceptions~~:

~~Premium for domestic worker classifications is calculated on a per capita basis instead of payroll. Domestic workers are employees who perform household duties. *Refer to Rule 3-C.*~~

~~A per capita classification uses the number of workers rather than payroll to measure exposure.~~

B. PAYROLL

For purposes of this manual, the terms "payroll" and "remuneration" mean~~s~~ money or substitutes for money.

1. Includes:

a. Wages or salaries (including retroactive wages or salaries). *Refer to NCCI's* ***User's Guide*** *for examples.*

b. Total ~~cash~~ pay received by an employee for commissions and draws against commissions.

c. Bonuses including stock bonus plans. ~~*(Refer to Rule 2-D for payroll limitation rules.)*~~

d. Extra pay for overtime work except as provided in Rule 2-C-2.

e. Pay for holidays, vacations, or periods of sickness. ~~*(Refer to Rule 2-G-3 for allocation of payroll for employees subject to more than one classification code.)*~~

f. Payment by an employer of amounts that would have been withheld from employees to meet statutory obligations for insurance or pension plans such as the Federal Social Security Act or Medicare.

g. Payment to employees on any basis other than time worked, such as piecework, profit sharing or incentive plans.

h. ~~Payment or allowances for hand tools or hand-held power tools used by employees in their work or operations for the insured. These tools may be supplied directly by the employee or to the employee through a third party.~~ (RESERVED FOR FUTURE USE.)

i. The rental value of an apartment or house provided to an employee based on comparable accommodations.

j. The value of lodging, other than an apartment or house received by an employee as part of their pay to the extent shown in the ~~insured's~~ employer's records.

k. The value of meals received by employees as part of their pay to the extent shown in the ~~insured's~~ employer's records.

l. The value of store certificates, merchandise, credits or any other substitute for money received by employees as part of their pay.

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EXHIBIT 7 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)
(Exhibit comment: All current state exceptions will continue to apply unless otherwise noted in the state-specific exhibits)

m. Payments for salary reduction, employee savings plans, retirement or cafeteria plans (IRC 125), health savings accounts, and flexible spending accounts that are made through employee-authorized salary reductions from the employee's gross pay. *Refer to NCCI's **User's Guide** for an example.*

n. Davis-Bacon wages or wages from a similar prevailing wage law. *Refer to NCCI's **User's Guide** for an example.*

o. Annuity plans.

p. Expense reimbursements to employees ~~to the extent that an~~ if the employer's records do not confirm that the expense was incurred as a valid business expense. *Refer to Rule 2-B-2-h for contractual allowable travel expenses.*

Exception:

When it can be verified that the employee was away from home overnight on the business of the employer, but the employer did not maintain verifiable receipts for incurred expenses, a reasonable expense allowance is permitted to be excluded. The allowance is limited to a maximum of ~~$30~~ $75 per day~~, is permitted~~. The remaining non-verifiable expenses are included as payroll.

Refer to Rule 2-B-2-h for additional information about exclusion of expense reimbursements.

q. Payment for filming of commercials excluding subsequent residuals that are earned by the commercial's participant(s) each time the commercial appears in ~~print or is broadcast~~ any type of media.

r. Adjustments made by the employer to raise employees' wages to federal, state, or local minimum wage, whichever is applicable.

2. Excludes:

a. Tips or other gratuities received by employees.

b. Payments by an employer to group insurance or group pension plans for employees, other than those covered by Rule 2-B-1-f and Rule 2-B-1-m.

c. Payments by an employer into third-party trusts for the Davis-Bacon Act or a similar prevailing wage law provided the pension trust is qualified under IRC Sections 401(a) and 501(a).

d. The value of special rewards for individual invention or discovery.

e. Dismissal or severance payments except for time worked or vacation accrued.

f. Payments for active military duty.

g. Employee discounts on goods purchased from the employee's employer.

h. Expense reimbursements to employees ~~to the extent that an~~ if the employer's records confirm that the expense was incurred as a valid business expense.

Reimbursed expenses and flat expense allowances ~~(except for hand or hand-held power tools)~~ paid to employees may be excluded from the audit only if all three of the following conditions are met:

(1) The expenses or allowances are incurred for the business of the employer

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EXHIBIT 7 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)
(Exhibit comment: All current state exceptions will continue to apply unless otherwise noted in the state-specific exhibits)

(2) The amount of each employee's expense ~~payments~~ or allowance~~s~~ ~~are~~ is shown separately in the records of the employer

(3) The amount of ~~each~~ ~~employee's~~ the expense ~~reimbursement~~ or allowance approximates ~~is a fair estimate of~~ the actual expense~~s~~ incurred by the employee in the conduct of ~~his/her~~ their work

Refer to NCCI's ***User's Guide*** *for an example*.

Note: ~~When it can be verified that the employee was away from home overnight on the business of the employer, but the employer did not maintain verifiable receipts for incurred expenses, a reasonable expense allowance, limited to a maximum of $30 per day, is permitted.~~ If an employer did not maintain verifiable receipts for incurred expenses for an employee that was away from home overnight on the business of an employer a maximum expense allowance is permitted to be excluded. *Refer to Rule 2-B-1-p Exception for the maximum employee expense allowance.*

Allowable travel expenses permitted by any contract with a federal, state, or local government entity, including, but not limited to, a city, borough, or village, are excluded from payroll. In lieu of verifiable receipts for incurred expenses, the employer must produce a copy of the contract provision permitting the travel expenses at audit. The allowable travel expenses must be in addition to the current wage of the employee.

i. ~~Supper~~ Meal money for late work.

j. Work uniform allowances.

k. Sick pay paid to an employee by a third party such as an ~~insured's~~ employer's group insurance carrier that is paying disability income benefits to a disabled employee.

l. Employer-provided perks such as:

- Use of company-provided automobiles
- Airplane flights
- Incentive vacations (e.g., contest winners)
- Discounts on property or services
- Club memberships
- Tickets to entertainment events
- Educational assistance
- Relocation and moving expenses

m. Employer contributions to employee benefit plans such as:

- Employee savings plans
- Retirement plans
- Cafeteria plans (IRC 125)
- Health savings accounts
- Flexible spending accounts

These include contributions made by the employer, at the employer's expense, which are determined by the amount contributed by the employee.

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EXHIBIT 7 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)
(Exhibit comment: All current state exceptions will continue to apply unless otherwise noted in the state-specific exhibits)

D. PAYROLL LIMITATIONS

~~1. Payroll limitation applies after any deductions of extra pay for overtime. Partial weeks are considered full weeks when determining average weekly pay. Total time of any worker employed during the policy period is the sum of the portions of all verbal or written agreements with that employee that fall within the policy period.~~

1. ~~2.~~ Specific limitations may apply to:
   a. ~~-~~Ppayroll for ~~E~~executive ~~O~~officers, members of limited liability companies, partners, and sole proprietors ~~and to~~
   b. ~~-~~Cclassifications with notes that indicate payroll limitations

   Refer to:
   - *National and state special Classifications sections for details*
   - ~~*Refer to*~~ *Sstate pages for specific limitations* ~~.~~
   - *Rule 2-E-1-b for additional information regarding executive officer payroll limitations*
2. Payroll limitations apply after any exclusions of extra pay for overtime; *refer to Rule 2-C-2-a*.
3. Payroll used to calculate premium must exclude that part of the employee's average weekly pay that exceeds the applicable weekly limitation, provided:
   a. ~~-~~Books and records are maintained to show separately that the total payroll earned by each employee is in excess of the weekly payroll limitation for the total time employed during the policy period, and
   b. ~~-~~Separate records are maintained, in summary, by classification for such employees

   For more information on payroll, *refer to Rule 2-B.*
4. Partial weeks are considered full weeks when determining average weekly pay. Total time of any worker employed during the policy period is the sum of the portions of all verbal or written agreements with that employee that fall within the policy period.
5. ~~Bonuses —~~For purposes of applying the payroll limitation rule, bonuses paid during the policy term must be earned during the policy term. ~~and~~ They are prorated for the period of employment during the policy term to determine the average weekly bonus to be added to the average weekly pay.

   For additional information on bonuses, *refer to Rule 2-B-1-c* ~~regarding Executive Officer payroll limitations, *refer to Rule 2-E-1-b*~~.

   Refer to NCCI's ***User's Guide*** *for an example.*

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EXHIBIT 8
BASIC MANUAL—2001 EDITION
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
E. EXECUTIVE OFFICERS, MEMBERS OF LIMITED LIABILITY COMPANIES, PARTNERS, AND SOLE PROPRIETORS
1. Executive Officers
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)
(Exhibit comment: All current state exceptions will continue to apply unless otherwise noted in the state-specific exhibits)

b. Premium Determination

Premium for executive officers is based on their total payroll, subject to the following limitations and the requirements of Rule 2-D:

(1) The minimum individual payroll for an executive officer is shown on the individual state pages in the ***Basic Manual***.

(2) The maximum individual payroll for an executive officer is shown on the individual state pages in the ***Basic Manual***.

(3) The payroll limitations in b(1) and b(2) apply to the average weekly payroll of each executive officer for the number of weeks the officer was employed during the policy period.

When an individual is not an executive officer for the entire policy period, the payroll limitation is prorated based on the number of weeks that the individual was an executive officer.

(4) Payroll is subject to minimum and maximum limitations and *included* when one of the following apply:

(a) The executive officer does not perform any duties but frequently visits the premises.

(b) The executive officer frequently visits the premises of the ~~risk~~ employer for business conferences, directors' meetings, or similar duties, even if the officer is an employee or officer of another ~~risk~~ employer in the operations of which he/she takes an active interest.

(c) The officer receives no salary; however, a regular salary is credited to him or her on the books. In this instance the amount credited must be included in payroll.

(d) The officer receives no salary, either drawn or credited, or the audit records fail to disclose the salary. In this instance the amount to be included in the payroll is the applicable minimum per Rule 2-D.

(5) Payroll is *excluded* when:

(a) The executive officer is elected for the value of his/her name or because of stock holdings, has no duties, and does not visit the premises, except perhaps to attend directors' meetings, or.

(b) The executive officer ceases to perform any duties and does not visit the premises, except perhaps to attend directors' meetings.

For the applicable state weekly minimum and maximum individual payroll limitation formula, *refer to Appendix F.*

c. Executive Officers Performing Flight Duties

Payroll of an executive officer who is a pilot or member of the flying crew of an aircraft used in the ~~insured's~~ employer's business must be assigned as follows:

(1) For each week that the executive officer did not perform flight duties, assign the executive officer's payroll to the classification that applies to the principal operations in which the executive officer is engaged.

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EXHIBIT 8 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
E. EXECUTIVE OFFICERS, MEMBERS OF LIMITED LIABILITY COMPANIES, PARTNERS, AND SOLE PROPRIETORS
1. Executive Officers
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)
(Exhibit comment: All current state exceptions will continue to apply unless otherwise noted in the state-specific exhibits)

(2) For each week that the executive officer performed flight duties, assign the officer's payroll for that week to ~~Code 7421—~~ the appropriate Aaviation—Fflying Ccrew classification. However, if the executive officer's nonflying duties in that week are subject to a higher rated classification, assign that higher rated classification for that week.

Note: The above rules apply on the basis of the pilot's logbook, which is required under federal regulations, or on the basis of verifiable records.

(3) If an ~~Code 7421—A~~aviation—Fflying Ccrew classification applies and verifiable records are not kept to indicate those weeks during which flying is performed by the executive officer, assign the executive officer's payroll to the highest rated classification that applies to any of their duties.

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EXHIBIT 9
BASIC MANUAL—2001 EDITION
NEVADA RULE EXCEPTIONS
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION

A. PREMIUM BASIS

Change Rule 2-A as follows:

~~Effective January 1, 2000, p~~Premium is based on the actual payroll of each covered employee but must not exceed $36,000 per employee, per annual policy period. For a policy that is in effect less than one full year, the estimated annual payroll for each employee is determined, capped at $36,000 if applicable, and prorated based on the number of days coverage was provided. Estimated payroll must include anticipated, but not yet paid, bonuses.

Refer to Nevada's ***User's Guide*** *for an example.*

Exception:

Some classifications may have a different premium basis; *refer to NCCI's* ***User's Guide*** *for an example*. ~~For example, premium for domestic worker classifications is calculated on a per capita basis. *Refer to Rule 3-C.*~~

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EXHIBIT 10
BASIC MANUAL—2001 EDITION
NEVADA RULE EXCEPTIONS
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
B. PAYROLL

1. Includes:

Change Rule 2-B-1-d as follows:

d. Extra pay for overtime work.

Change Rule 2-B-1-h as follows:

h. ~~Payment or allowance for hand tools or power tools used by hand provided by employees either directly or through a third party and used in their work or operations for the insured except as provided in Rule 2-B-2.~~ Tool allowance or rental, including vehicle rental or usage, where no accounting is required of the employee.

Change Rule 2-B-1-i as follows:

i. The rental value of an apartment or a house provided for an employee based on comparable accommodations. The rental value of such apartment or house is subject to a minimum of $~~1~~50 per month.

Change Rule 2-B-1-j as follows:

j. The value of lodging, other than an apartment or house, received by employees as part of their pay, to the extent shown in the ~~insured's~~ employer's records. The value of such lodging is subject to a minimum of $50 per month.

Change Rule 2-B-1-k as follows:

k. The value of meals received by employees as a part of their pay to the extent shown in the ~~insured's~~ employer's records. The value of such meals is subject to minimum of $1.50 per meal or $5.00 per day.

~~p. Expense reimbursements to employees to the extent that an employer's records do not substantiate that the expense was incurred as a valid business expense.~~

Change Rule 2-B-1-q as follows:

q. Payment for filming of commercials that are earned by the commercial's participant(s) each time the commercial appears in print or is broadcast.

Add the following to Rule 2-B-1:

s. ~~r.~~ Tips or other gratuities received by employees.

t. ~~s.~~ Dismissal or severance payments.

u. ~~t.~~ Payments for active military duty.

v. Travel time pay which is compensation for time spent traveling.

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EXHIBIT 11
BASIC MANUAL—2001 EDITION
NEVADA RULE EXCEPTIONS
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
B. PAYROLL

2. Excludes:

Change Rule 2-B-2-a as follows:

a. This rule does not apply in Nevada.

Change Rule 2-B-2-e as follows:

e. This rule does not apply in Nevada.

Change Rule 2-B-2-f as follows:

f. This rule does not apply in Nevada.

Change Rule 2-B-2-l as follows:

l. Employer provided perquisites (perks) such as:

- Use of an automobile for business purposes only
- An airplane flight
- An incentive vacation (e.g., contest winner)
- A discount on property or services
- Club memberships
- Tickets to entertainment events
- Educational assistance
- Relocation and moving expenses

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EXHIBIT 12
BASIC MANUAL—2001 EDITION
NEVADA RULE EXCEPTIONS
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION

D. PAYROLL LIMITATIONS

Change Rule 2-D-~~1~~ 3 as follows:

~~1. Partial months are considered full months when determining the monthly deemed wage. Total time of any worker employed during the policy period is the sum of the portions of all verbal or written agreements of that employee that fall within the policy period.~~

~~Change Rule 2-D-2 as follows:~~

3. ~~2.~~ For executive officers and classifications with notes that indicate a payroll limitation, exclude that part of the employee's pay in excess of the applicable payroll limitation, provided that:
   - Books and records are maintained that show separate payroll totals earned by each employee whose pay for the total time employed during the policy period exceeds the payroll limitation, and
   - Separate records are maintained in summary by classification for such employees.

Change Rule 2-D-4 as follows:

4. Partial months are considered full months when determining the monthly deemed wage. Total time of any worker employed during the policy period is the sum of the portions of all verbal or written agreements of that employee that fall within the policy period.

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TOI/Sub-TOI:	*16.0 Workers Compensation/16.0004 Standard WC*		
Product Name:	*B-1433 Revisions to Basic Manual Rule 1 - Classification Assignment and Rule 2 - Premium Basis and Payroll Allocation*		
Project Name/Number:	*/*		

Supporting Document Schedules

Bypassed - Item:	Authorization Letter
Bypass Reason:	NA
Attachment(s):	
Item Status:	
Status Date:	

Bypassed - Item:	Filing Fees
Bypass Reason:	NA
Attachment(s):	
Item Status:	
Status Date:	

Satisfied - Item:	Filing Memorandum
Comments:	
Attachment(s):	B-1433 Filing Memorandum.pdf
Item Status:	
Status Date:	

Bypassed - Item:	Workers' Compensation Rate Filing/Loss Costs Expense Worksheet
Bypass Reason:	NA
Attachment(s):	
Item Status:	
Status Date:	

Satisfied - Item:	Response to the 8-17-16 Objection
Comments:	
Attachment(s):	B-1433 NV Interrogatory Response.pdf
Item Status:	
Status Date:	

FILING MEMORANDUM

ITEM B-1433—REVISIONS TO BASIC MANUAL RULE 1—CLASSIFICATION ASSIGNMENT AND RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION

PURPOSE

This item clarifies and enhances NCCI's ***Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)*** Rule 1—Classification Assignment and Rule 2—Premium Basis and Payroll Allocation.

BACKGROUND

NCCI has an ongoing process dedicated to the systematic research, analysis, and maintenance of NCCI's manuals. This process ensures that NCCI products continue to add value to the various industry stakeholders. As a result of this research, NCCI is proposing certain changes to ***Basic Manual*** Rules 1 and 2.

PROPOSAL

The following is a summary of the key changes proposed to ***Basic Manual*** Rules 1 and 2:

- **Rule 1-B-2-c—Salespersons or Collectors—Outside (Code 8742)**

  This item clarifies that district or regional managers who travel between locations of the employer to perform various duties not involving outside sales or collection are not assigned to Code 8742. They must be assigned to the classification that best describes their duties.

- **Rule 1-B-3—General Inclusions**

  General inclusions are operations that appear to be separate businesses but are included within all basic classifications. These operations are not separately classified. The following operations are to be added to, or updated in, the list of general inclusions:

  - Add stores and day care services operated by the employer for employee use. These operations have become common to many businesses.
  - Update the description of an employer printing on its own products or of its own materials for advertising or packaging.

- **Rule 1-B-4—General Exclusions**

  General exclusions are operations in a business so unusual for the type of business described by the applicable basic classification that they are separately classified even though the operations are not conducted as a secondary business. This item proposes to eliminate employer-operated day care service from the list of general exclusions. This type of operation has become common to many businesses and is proposed to be added as a general inclusion.

- **Rule 1-B-5—Governing Classification**

  Generally, a governing classification at a specific job or location is the classification, other than a standard exception classification, that produces the greatest amount of payroll. This item clarifies how to determine the governing classification when:

  - A basic classification produces the greatest amount of payroll
  - A basic classification is applicable but no payroll is assigned

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FILING MEMORANDUM

ITEM B-1433—REVISIONS TO BASIC MANUAL RULE 1—CLASSIFICATION ASSIGNMENT AND RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION

- Multiple basic classifications apply
- Multiple classifications apply but no payroll is assigned to any of the basic classifications
- A basic classification is not applicable

- **Rule 1-C-1—Classification Captions and Notes**

  This item clarifies the definitions for caption and note. It also adds the term “phraseology” as a common alternative to “classification wording.”

- **Rule 1-C-2—Words and Phrases**
  - The definition of “Clerical” will be updated to remove an obsolete reference to drafting.
  - The classification examples referenced under Stories in Height will be eliminated because they are unnecessary and do not provide value to the definition.
  - A rule will be added to define “Separate and Distinct Business.” This rule will provide guidance on what qualifies as a separate and distinct business or operation.

- **Rule 1-D-3-f—Employee Leasing, Labor Contractors and Temporary Labor Services**

  The term “Professional Employer Organizations” will be added because it is commonly used in the industry and in NCCI’s manuals. Also “employee leasing” will be changed to “employee leasing firms.”

- **Rule 1-D-5—Businesses Described by a Standard Exception Classification**

  This item clarifies that the rule applies to individual locations as well as to the overall business.

- **Rule 1-D-6—Classifications Limited to Separate Businesses**

  This rule will be simplified but also updated with the addition of “and Distinct” to the title. This is for consistency with the proposed addition of Rule 1-C-2-l, which defines a separate and distinct business.

- **Rule 1-F—Changes or Corrections in Classifications**

  The following will be added to the list of operations that are exempt from the rule:
  - “Professional employer organization” is a common alternative term for an employee leasing firm. The policies for these entities often have numerous classifications for different operations that are added or deleted during a policy term.
  - Operations assigned to standard exception classifications can be added to a policy at any time.
  - General exclusions are operations so unusual for a business that they are classified separately even though they are not conducted as a secondary business. These operations could be added at any time during a policy term and should be classified appropriately.

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FILING MEMORANDUM

ITEM B-1433—REVISIONS TO BASIC MANUAL RULE 1—CLASSIFICATION ASSIGNMENT AND RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION

- **Rule 2-A—Premium Basis**

  This item revises the exception to the rule to accommodate classifications using a premium basis other than per capita.

- **Rule 2-B—Payroll**

  The following changes will be made to Rule 2-B:

  - Clarify the rule to indicate that “payroll” and “remuneration” mean money or substitutes for money. The terms mean the same in all rule, classification, and endorsement references.
  - Eliminate the inclusion of payments or allowances for hand tools or hand-held power tools used by employees in their work. This is an outdated concept because there are numerous items that employees purchase and are reimbursed for by their employer. These are allowed to be excluded from audit.
  - Add employee-authorized salary reductions for health savings accounts and flexible spending accounts to the list of payroll inclusions. This is similar to employee savings plans and retirement or cafeteria plans.
  - Increase the maximum amount for expense reimbursements without verifiable receipts from $30 to $75 per day. This revision provides a more current and reasonable expense allowance.
  - Add a rule to address that reimbursements for allowable travel expenses permitted by a governmental contract are excluded from payroll. The employer must produce a copy of the contract, and the allowable travel expenses must be in addition to the current wage of the employee.
  - Add a rule to include payroll adjustments by the employer to raise employees’ wages to federal, state, or local minimum wage, whichever is higher.
  - Replace the term “supper money” with “meal money” for a more accurate description.
  - Add educational assistance and relocation and moving expenses to the list of employer-provided perks that are excluded from payroll. These are common perks provided by employers to their employees.
  - Add health savings accounts and flexible spending accounts to the list of employer contributions to employee benefit plans that are excluded from payroll.

- **Rule 2-D—Payroll Limitations**

  The following changes will be made to Rule 2-D:

  - Clarify the rule applies to executive officers, members of LLCs, partners, and sole proprietors, and to classifications with notes that indicate payroll limitations.
  - Address how payroll limitations are impacted by overtime pay, partial weeks worked, and bonuses earned. This is part of NCCI’s continuing effort to clarify and modernize the rules.

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FILING MEMORANDUM

ITEM B-1433—REVISIONS TO BASIC MANUAL RULE 1—CLASSIFICATION ASSIGNMENT AND RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION

- **Rule 2-E—Executive Officers, Members of Limited Liability Companies, Partners, and Sole Proprietors**

  This rule will be updated to address the treatment of an employee who is not an executive officer during the entire policy period. The payroll limitation will be prorated based on the number of weeks that such persons were executive officers during the policy period.

This item includes state-specific updates to address the national changes and/or to better organize the state rules exceptions.

This item also includes various formatting and grammatical changes.

IMPACT

The impact to overall statewide premium will vary as a result of the changes proposed in this item. Also, for some employers, a negligible premium change may result based on the revised rules. This item proposes changes to NCCI's ***Basic Manual*** that will modernize and clarify rules relevant to current market conditions. As part of NCCI's continuing effort to simplify and clarify manual rules, we anticipate that these changes will enhance the understanding of NCCI's ***Basic Manual***.

EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY

To implement this item, the attached exhibits detail the changes required in NCCI's ***Basic Manual***.

Exhibit	Exhibit Comments	Implementation Summary
National Exhibits		To become effective for new and renewal policies effective on and after 12:01 a.m. on October 1, 2017.
1	• Details the revisions to Rule 1-B-2-c • Refer to state exhibit for TX • All state exceptions will continue to apply unless otherwise noted in the state-specific exhibits	
2	• Details the revisions to Rules 1-B-3, 1-B-4, and 1-B-5 • The revisions to Rules 1-B-4 and 1-B-5-b do not apply in TX • Refer to state exhibits for FL, OR, and TX	
3	• Details the revisions to Rule 1-C-1	
4	• Details the revisions to Rules 1-C-2-b and 1-C-2-j, and the establishment of Rule 1-C-2-l • The revisions to Rule 1-C-2-b do not apply in TX • Refer to state exhibits for FL, TX, and VA	

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ITEM B-1433—REVISIONS TO BASIC MANUAL RULE 1—CLASSIFICATION ASSIGNMENT AND RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION

Exhibit	Exhibit Comments	Implementation Summary
5	• Details the revisions to Rules 1-D-3-f, 1-D-5, and 1-D-6 • The revisions to Rules 1-D-3-f and 1-D-5 do not apply in TX • Refer to state exhibits for CO, MT, TN, and TX	
6	• Details the revisions to Rule 1-F • The revisions to Rules 1-F-1 and 1-F-3-a do not apply in VA • The revisions to Rule 1-F-3-a and 1-F-3-b do not apply in FL and MO • Refer to state exhibits for FL, MO, TX, and VA • All state exceptions will continue to apply unless otherwise noted in the state-specific exhibits	
7	• Details the revisions to Rules 2-A, 2-B, and 2-D • The revisions to Rule 2-A do not apply in FL, NV, and TN • The revision to Rule 2-B-1-a does not apply in MT • The revision to Rule 2-B-1-b does not apply in AK • The revision to Rule 2-B-1-c does not apply in OR and TN • The revisions to Rule 2-B-1-e do not apply in AR, IL, IN, KS, KY, MD, NM, OK, OR, SD, TN, and UT • The revision to Rule 2-B-1-j does not apply in AZ, MT, and NV • The revision to Rule 2-B-1-k does not apply in AZ, MT, and NV • The revision to Rule 2-B-1-m does not apply in OK • The revision to Rule 2-B-1-n does not apply in AK, CO, OR, and VA • The revisions to Rule 2-B-1-p do not apply in AZ, MS, NV, and OR • The revision to the Rule 2-B-1-p exception does not apply in MT and TX • The revisions to Rule 2-B-2-h does not apply in OR • The revisions to Rule 2-B-2-l do not apply in NV • The revisions to Rule 2-B-2-m do not apply in VA • The revisions to Rule 2-D do not apply in MT • The revision to Rule 2-D-4 does not apply in NV • Refer to state exhibits for AK, AR, AZ, CO, FL, IL, IN, KS, KY, MD, ME, MS, MT, NM, NV, OK, OR, SD, TN, TX, UT, and VA	

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Exhibit	Exhibit Comments	Implementation Summary
	• All state exceptions will continue to apply unless otherwise noted in the state-specific exhibits	
8	• Details the revisions to Rules 2-E-1-b and 2-E-1-c • The revision to Rule 2-E-1-b(3) does not apply in IA and MO • The revisions to Rule 2-E-1-b(4) do not apply in IA • The revisions to Rule 2-E-1-c do not apply in TX • The revision to Rule 2-E-1-c(2) does not apply in MO • Refer to state exhibits for FL, IA, MO, RI, and TX • All state exceptions will continue to apply unless otherwise noted in the state-specific exhibits	
State Exhibits		
9	Details the revisions to Alaska's exception to Rule 2-B-1.	
10	Details the elimination of Alaska's exception to Rule 2-B-2.	
9	Details the revisions to Arkansas' exception to Rule 2-B-1-e.	
9	Details the revisions to Arizona's exception to Rule 2-B-1.	
9	Details the revisions to Colorado's exception to Rule 1-D-9.	
10	Details the revision to Colorado's exception to Rule 2-B-1-n.	
9	Details the elimination of Florida's exception to Rule 1-B-3.	
10	Details the elimination of Florida's exception to Rule 1-C-2-j.	
11	Details the revisions to Florida's exception to Rule 1-F.	
12	Details the revisions to Florida's exception to Rule 2-A.	
13	Details the revisions to Florida's exception to Rule 2-E-1-b.	
9	Details the revision to Iowa's exception to Rule 2-E-1-b.	
9	Details the elimination of Illinois' exception to Rule 2-A and the revisions to Illinois' exception to Rule 2-B.	
9	Details the revisions to Indiana's exceptions to Rule 2-B.	
9	Details the revisions to Kansas's exception to Rule 2-B-1-e.	
9	Details the revisions to Kentucky's exception to Rule 2-B.	
9	Details the revisions to Maryland's exceptions to Rule 2-B.	

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ITEM B-1433—REVISIONS TO BASIC MANUAL RULE 1—CLASSIFICATION ASSIGNMENT AND RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION

Exhibit	Exhibit Comments	Implementation Summary
9	Details the revision to Maine's exception to Rule 2-B-1-r.	
9	Details the revisions to Missouri's exception to Rule 1-F.	
10	Details the revisions to Missouri's exceptions to Rules 2-E-1-b and 2-E-1-c(2).	
9	Details the revision to Mississippi's exception to Rules 2-B-1-p and the elimination of Mississippi's exception to Rule 2-B-2-h.	
9	Details the revision to Montana's exception to Rule 1-D-9.	
10	Details the revisions to Montana's exceptions to Rules 2-B-1 and 2-B-2.	
9	Details the revisions to New Mexico's exceptions to Rule 2-B.	
9	Details the revisions to Nevada's exception to Rule 2-A.	
10	Details the revisions to Nevada's exception to Rule 2-B-1.	
11	Details the revisions to Nevada's exception to Rule 2-B-2.	
12	Details the revisions to Nevada's exceptions to Rule 2-D.	
9	Details the revisions to Oklahoma's exceptions to Rule 2-B.	
9	Details the elimination of Oregon's exception to Rule 1-B-4.	
10	Details the revisions to Oregon's exception to Rule 2-B-1.	
11	Details the revisions to Oregon's exception to Rule 2-B-2.	
9	Details the revisions to Rhode Island's exception to Rule 2-E-1-b.	
9	Details the revision to South Dakota's exception to Rule 2-B-2.	
9	Details the revisions to Tennessee's exception to Rule 1-D-3-f.	
10	Details the revisions to Tennessee's exception to Rule 2-A.	
11	Details the revisions to Tennessee's exceptions to Rule 2-B.	
9	Details the revisions to Texas's exception to Rule 1-B-2-c.	
10	Details the revisions to Texas's exceptions to Rules 1-B-3, 1-B-4, and 1-B-5.	
11	Details the elimination of Texas's exception to Rule 1-C-2-j.	
12	Details the revision to Texas's exception to Rules 1-D-5 and the elimination of Texas's exception to Rule 1-D-9.	

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ITEM B-1433—REVISIONS TO BASIC MANUAL RULE 1—CLASSIFICATION ASSIGNMENT AND RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION

Exhibit	Exhibit Comments	Implementation Summary
13	Details the revisions to Texas's exception to Rule 1-F-3-b.	
14	Details the elimination of Texas's exception to Rule 2-A.	
15	Details the revision to Texas's exception to Rule 2-B-1 and the elimination of Texas's exception to Rule 2-B-2-h.	
16	Details the revisions to Texas's exception to Rule 2-D.	
17	Details the revisions to Texas's exception to Rule 2-E-1-c.	
9	Details the revisions to Utah's exception to Rule 2-B.	
9	Details the elimination of Virginia's exception to Rule 1-C-2-j.	
10	Details the revisions to Virginia's exception to Rule 1-F.	
11	Details the revisions to Virginia's exception to Rule 2-A.	
12	Details the revisions to Virginia's exception to Rule 2-B.	

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National Council on Compensation Insurance

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September 13, 2016

Mr. Gennady Stolyarov II, Lead Actuary
Department of Business and Industry
Nevada Division of Insurance, Property & Casualty Section
1818 East College Parkway, Suite 103
Carson City, NV 89706

Re: Item B-1430—Revisions to Basic Manual Rule 1—Classification Assignment and Rule 2—Premium Basis and Payroll Allocation
NCCI SERFF Tracking Number: NCCI-130670456 State Tracking Number: 63193

Dear Mr. Stolyarov:

Thank you for your August 17, 2016 objection regarding the above-referenced item filing. After review and consideration, we offer the following response to your objection.

Objection:

(i) What was NCCI's original rationale for removing in Nevada the nationwide dollar-amount threshold for expenses that could not be confirmed from the employer's records as valid business expenses, but which could still be excluded from payroll? What statutes, regulations, bulletins, and/or prior discussions with regulators were used to justify removing this exception threshold from Rule 2-B-1-p?

(ii) Was the removal of the exception threshold from Rule 2-B-1-p in the past motivated by the desire to avoid redundancy (since the threshold was present in Rule 2-B-2-h), or by a desire to substantively remove the exception threshold in Nevada?

(iii) In practice, was any such exception threshold historically applied in Nevada to determine whether expense reimbursements to employees are considered part of payroll? In other words, would the combination of removing the exception language from Rule 2-B-2-h and not including the exception language in the Nevada-specific Rule 2-B-1-p substantively alter the definition of payroll applied in practice in Nevada?

Response:

As discussed during our conference call on Friday, September 9, 2016, NCCI will revise Exhibit 10 of the filing package for Item B-1433 that was previously submitted to you. The revised exhibit will, in part, display the discontinuation of Nevada's exception to ***Basic Manual*** Rule 2-B-1-p. As a result, Nevada will adopt the national treatment for Rule 2-B-1-p including the proposed expense allowance of a maximum of $75 per day as indicated in Exhibit 7.

Thank you for your consideration of this item.

Sincerely,

Magda Karpuk

Magda "Maggie" Karpuk
State Relations Executive

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