

# WSIB: Mandatory Coverage in the Construction Industry

The Ontario government has changed the law to expand Workplace Safety and Insurance Board (WSIB) coverage in the construction sector. These changes have been made partly to improve health and safety, level the playing field and help combat the underground economy in the construction sector.

Starting on January 1, 2013, WSIB coverage will become mandatory for everyone working in construction industry unless they qualify for an exemption. WSIB coverage has been extended to the following business owners in the construction industry:

- independent operators,
- sole proprietors,
- partners in partnerships, and
- executive officers in corporations.

## How to Register

WSIB has developed a website for business owners with respect to mandatory coverage in construction at "Be Registered Be Ready". If you are currently not registered with WSIB, you may pre-register so your account can be activated on January 1, 2013.

If you are already registered, you may have to include your own insurable earnings with your workers' earnings when you report premiums. This new mandatory coverage does not change for those who work as employees of construction related firms. The new mandatory coverage applies to any business involved in construction included in Class G – Construction of Schedule 1 (o. Reg. 175/98) and/or business activities included in Class G in WSIB's Employer Classification Manual. A listing of those businesses impacted may be found at <http://wsib.on.ca/>.

## Who Qualifies for an Exemption from Mandatory Coverage?

There are two types of exemption. One exemption is for home renovators who work exclusively in home renovation and:

- work directly for the homeowner
- are paid directly by the homeowner

The second exemption is for:

- corporations and partnerships with workers
- corporations without workers but with multiple executive officers
- partnerships without workers

Here, the business may select one executive officer or partner to apply for an exemption. To qualify, this partner or executive officer must not perform any construction work. Construction work refers to any manual work of a skilled or unskilled nature, the operation of equipment or machinery or the direct on-site supervision of workers. Periodic site visits are permitted. This exemption may only apply to one partner or executive officer per business. This exemption is not automatic and you must complete a request form to qualify, "Partner or Executive Officer in Construction – Exemption from Coverage." If you are exempt from coverage, you will not be entitled to any benefits under WSIB.

For all other executive officers or partners that do not perform construction work, the corporation or partnership may qualify for a special premium rate. This special premium rate must be requested by completing "Request for Rate Group 755, Non-Exempt Partners and Executive Officers in Construction." Independent operators and sole proprietors (with workers) do not qualify for this exemption.

An Executive Officer is enumerated, appointed or empowered through corporate documents such as Articles of Incorporation, Charters, by-laws and/or corporate profile reports filed with a federal or provincial agency to act as an officer.

### **WSIB Clearance Certificates**

You must be registered to obtain a clearance. A WSIB clearance confirms that a contractor or subcontractor is registered and has an account in good standing. WSIB has confirmed that initially advance payments will not be required on January 1, 2013; however you must get registered to obtain a WSIB clearance. In the construction industry, independent operator letters and the construction questionnaire will no longer apply after December 31, 2012. A clearance relieves a business (the principal) that retains a contractor of the liability for the contractor's WSIB insurance premiums owing in connection with the work or service being performed. Principals and general contractors must obtain a WSIB clearance certificate from all contractors. You are considered a principal if you hire a contractor or subcontractor.

### **Non-Construction Firms and Clearances**

Construction clearance requirements will also apply to non-construction firms. For example, if a manufacturing company hires a contractor, the manufacturing company (the principal) must ensure a clearance certificate is valid and in place and the contractor must be registered and the account is in good standing.

### **Insurable Earnings**

The insurable earnings that will be reported to WSIB are determined as follows:

#### **Independent operators**

The insurable earnings of an independent operator will be the labour portion of a contract or invoice. WSIB has issued an operational policy titled Insurable Earnings- Construction (14-02-18) which details how to determine the labour portion of the contract.

#### **Sole proprietors with workers and Partners in Partnerships**

Insurable earnings will be the individual's estimated annual self-employment business income from the sole proprietorship or partnership, subject to minimum and maximum amount of insurable earnings. Sole proprietors and partners can use the prior year's net business income from your T1 but this amount must meet or exceed the annual minimum amount of the insurable earnings.

#### **Executive officers in a corporation**

The gross insurable earnings of an executive officer is based on the total of:

- Employment income reported on a T4,
- Other insurable employment income reported on a T4A,
- Dividends reported on a T5, and
- Director fees.

The WSIB has set the annual minimum amount of insurable earnings for sole proprietors, partners and executive officers in construction. The minimum amount is set as 1/3 the annual maximum amount (for 2013 -  $1/3 \times \$83,200 = \$27,733$ ) of insurable earnings.

### **Example of a Tax Planning Opportunity for a Construction Business**

ABC Roofing Limited is owned and operated by Mr. A and Mrs. A and they each hold an executive officer position with the company. Mr. A and Mrs. A do not perform any construction work. Mr. A does make periodic site visits and Mrs. A does the bookkeeping for the company. As one qualifying executive officer is allowed to apply for exemption of coverage, Mr. A should request and apply for the

“Partner or Executive Officer in Construction – Exemption from Coverage”. Mrs. A will also qualify for a special premium rate and should apply for the “Request for Rate Group 755, Non-Exempt Partners and Executive Officers in Construction.” Once WSIB has confirmed and accepted the exemption from coverage and the request for special group rate, the company will not pay any WSIB premiums on Mr. A’s insurable earnings and will pay premiums at a rate of \$0.21/\$100 for 2013 in respect to Mrs. A’s insurable earnings.

## **eServices**

Contractors can easily and conveniently get a clearance certificate using eClearance. Principals can also access eClearance to obtain the clearance certificate or validate a clearance certificate provided by any contractor. Contractors can renew clearances starting five days before the expiry date (February 19, May 19, August 19 and November 19).

Please contact your local Collins Barrow advisor if you have any questions.

## **About Collins Barrow**

**Collins Barrow is committed to the highest level of integrity, quality and professionalism and provides clients with solutions in the area of Audit, Tax and Transaction Services.**

Collins Barrow is one of Canada’s largest associations of Chartered Accounting firms and the eighth largest group of chartered accountants in Canada. Known as Canada’s mid-market alternative for audit, tax and advisory solutions, we have developed a reputation for being a real choice for quality and value added financial advice due to the depth and breadth of in-house skills, customized offerings, commitment to excellence in customer service and our global reach. Our unmatched service and deep financial offerings make Collins Barrow the right choice for maximizing shareholder value.

We serve companies at all stages of their development from large publicly traded companies to emerging and owner managed businesses. Our clients come from a cross section of industries including: Private Equity, Manufacturing, Industrial, Wholesale, Retail and Distribution, Professional Services, Farming and Agriculture, Financial Services, Real Estate and Land Development, Hospitality and Entertainment, Technology and Communications, Energy and Mining, Biotech and Not for Profit. Our understanding and firsthand experience in the trends that are impacting these industries continues to prove that our professionals are well positioned to offer valued and effective solutions.

Our global reach extends beyond Canada into 120 countries worldwide through Baker Tilly International, the eighth largest accountancy and business advisory network in the world. Together, we offer clients an established platform and access to the highest quality resources for audit, tax and transaction support in the global market place.

*Independent, responsive and trusted. We are the true national alternative. Collins Barrow, Clarity Defined™.*