


INDUSTRIAL COMMISSION OF ARIZONA



MEMORANDUM:

TO: Commissioners
Gaetano Testini, Director
Afshan Peimani, Chief Legal Counsel

DATE: November 30, 2023

From: Renee Pastor 
Self-Insurance Administrator

Subject: Setting of Self-Insurer Premium Calculation Rates and Schedule of Deviation Rates Pursuant to A.A.C R20-5-1534 and 1535

Historical Overview

From 1925 to 1969, the workers' compensation system consisted of the State Compensation Fund, which was a part of the Industrial Commission of Arizona ("ICA"). When the State Compensation Fund and the ICA were one organization, during this period, the self-insurer premium calculations were performed by the State Compensation Fund and were used as the basis to assess the annual workers' compensation taxes owed by the self-insured employer.

In 1969, the workers' compensation system was reorganized, and the State Compensation Fund separated from the ICA to become a separate agency responsible for providing workers' compensation insurance coverage to Arizona employers. The change did not impact the State Compensation Fund continuing to perform the premium calculations for the ICA authorized self-insurers. In the years following the separation from the Industrial Commission, the State Compensation Fund became a quasi-state agency, and changed its name to SCF AZ.

In the early to mid-1990s, the ICA took over the process of calculating the self-insurer premiums to assess taxes owed by the self-insurers. The calculation was based on the premium that would have been paid by the self-insurer if the self-insured was fully insured by SCF AZ. This included premium plans, rates and deviations used by SCF AZ to calculate premiums.

In 2010, during the second regular session of the Forty-ninth Legislature, the Legislature passed SB 1045 which continued the SCF AZ, a quasi-state agency that provided workers' compensation insurance through December 31, 2012. On January 1, 2013, SCF AZ ceased to exist as a State agency and became CopperPoint Insurance Company, a mutual insurance corporation and named successor in interest to SCF AZ.

The 2013 privatization of SCF AZ impacted the ICA's self-insurance program because the calculation of premiums to assess taxes owed by a self-insurer were no longer based on SCF AZ premium plans, rates, and deviations. In response to the privatization, the ICA made conforming changes to A.R.S. § 23-961(J), which was amended in 2013 and renumbered as 23-961 (G). A.R.S. § 23-961(G) now requires the ICA to calculate a self-insurer's taxes based on a premium that would have been paid by the self-insurer to an insurance carrier authorized to transact workers' compensation insurance in Arizona.

Revised Rules

In 2022, the ICA developed and passed Article 15 of Title 20, Chapter 5 of the Arizona Administrative Code, which replaced Title 20, Chapter 5, Article 2, 7 and 11. A.A.C. R20-5-1534 (A & B), established the ICA's ability to develop premium tax plans, and set premium rates including deviation rates, to calculate self-insurer premiums for the purpose of determining the self-insurer's annual tax assessment amount.

Rate Development

To develop the self-insurers' experience rates, the ICA retained AMI Risk Consultants, Inc. (AMI) to perform an actuarial study of the Arizona self-insurers' experience to develop rates which will be used by the ICA to calculate the self-insurer premium taxes beginning January 1, 2023. These rates include the following:

- Voluntary rates
- Residual market rates
- ELR's and D-ratios by class for experience rating
- Estimated impact of class rates and discount schedule on total premium
- Index amount for large losses
- Weighted value tables
- Ballast table
- Classifications by hazard group
- Expected loss ranges
- Average cost per case by hazard group
- Average cost per case including ALAE by hazard group
- Tax multipliers
- Excess loss factors by hazard group
- Table of expense ratios
- Table of insurance charges.
- Deviation Schedule

As part of this rate development effort for tax year 2023, some new payroll classification codes were developed. This was necessary because the ICA has used the rates developed by the National Council on Compensation Insurance (NCCI), the State's approved rating organization, since the 1990's and many of these rates are no longer relevant or do not meet the needs of Arizona self-insurers. NCCI stopped using the experience (payroll and loss information) of the self-insurers when developing its rates and therefore a large population of Arizona self-insurers experience was not being captured. The new rates that were developed for use in tax year 2023 included the following:

2023 New Self-Insured Workers' Compensation Payroll Classification Codes

The 2023 Self-Insured Workers' Compensation Premium Tax Rates were developed and approved on December 15, 2023.

7228 and 7229 - The NCCI combined local (7228) and long distance (7229) haul drivers into one code, 7219, due to the lack of experience in its data. Since the self-insurance program holds the largest inventory of driver information, short haul and long-distance haul drivers were separated into distinct class codes, as they each have separate risk categories.

7380 – This code and rates were developed to separate “delivery and distributing” company drivers from local haul drivers.

8829 – This code was discontinued by NCCI. A new rate was developed for this code to cover “convalescent homes and hospitals, all employees.”

2024 Self-Insured Workers' Compensation Payroll Classification Codes

A.R.S. § 23-901 provides definitions for volunteers who are in service of the employer utilizing volunteer assistance. Therefore, these volunteers qualify for coverage under the workers' compensation act in the State of Arizona.

The A.R.S. § 23-901(6)(c-g and j-o) designated volunteer positions are as follows:

1. Lessees of mining property
2. Regular members of volunteer fire departments
3. Members of the Department of the Public Safety Peace Officer Reserve or regular members of a volunteer sheriff's reserve
4. Any person placed in on-the-job evaluation or in on-the-job training under the Department of Economic Security's Temporary Assistance for Needy Families or vocational rehabilitation program.
5. Member of the Arizona National Guard, state guard or unorganized militia
6. Certified ambulance drivers and attendants who serve without pay or without full pay on a part-time basis.
7. Volunteer workers of a licensed health care institution
8. Personnel who participate in emergency management training, exercises or drills that are duly enrolled or registered with the division of emergency management or any political subdivision pursuant to 26-314 (C).
9. Regular Members of the Arizona Game and Fish Department Reserve organized pursuant to A.R.S. § 17-214.

8411 is the only volunteer class code developed by the National Council on Compensation Insurance to use for all volunteer position designations. As part of the rate study and development for tax year 2024, the following payroll classification codes were developed:

1. 8411 – Volunteer Firefighters
2. 8412 – Certified Ambulance Drivers and Attendants
3. 8413 – Certified Volunteer Police Officer and Sherriff Reserve
4. 8414 – DES OJT – TANF
5. 8415 – Volunteer Workers of a Licensed Heath Care Institution
6. 8416 – Volunteer Search and Rescue
7. 8417 – Volunteer – General
8. 8418 – Arizona Game and Fish Reserve

8417 was developed to capture volunteers are determined pursuant to A.R.S. § 23-901.06 Volunteer workers of a county, city, town, or other political subdivision of the state may be deemed to be employees and entitled to the benefits provided by this chapter upon the passage of a resolution or ordinance by the political subdivision defining the nature and type of volunteer work and workers to be entitled to such benefits. The basis for computing benefits shall be four hundred dollars per month.

*Payroll Classification codes and rates were not developed for the following and may be developed for subsequent tax years if more data becomes available:

1. Personnel who participate in emergency management training, exercises or drills that are duly enrolled or registered with the division of emergency management or any political subdivision pursuant to 26-314 (C).
2. Members of the Arizona National Guard, state guard or unorganized militia; or
3. Lessees of mining property

Rates for Commission Consideration

Three options have been developed for Commission consideration. They are as follows:

Option 1 (Scenario 1):

Rate increases are capped at 25% for those payroll classification codes that were undervalued by NCCI. The excess is distributed to the remaining payroll classification codes. This option has a 3.5% average rate increase from the prior year.

Option 2 (Scenario 2):

Rate increases are capped at 25% for those payroll classification codes that were undervalued by NCCI. The excess was not distributed to the remaining payroll classification codes. This option has a 0.9% average rate increase from the prior year.

Option 3 (Scenario 3):

Rate increases are capped at 25% for those payroll classification codes that were undervalued by NCCI. The full excess was not distributed to the remaining payroll classification codes. Five percent of the excess was distributed to the remaining payroll classification codes. This option has a 1.0% average rate increase from the prior year.

Staff Recommendation

Staff recommends the adoption of Option 1 (Scenario 1), as Option 1 (Scenario 1) accurately reflects the experience of the self-insurers while adequately distributing the excess to the remaining payroll classifications codes. This will mitigate the second-year impact of the new rate tables, while increasing the rates without a large impact to self-insurers by providing a means to achieve a precise Experience Modification Rate.