

# Practice Directive AP 1-37-1 (B)

## Non-Industrial Building Construction

Effective October 1, 2003

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### PRACTICE

“Non-industrial” building construction refers to building construction not associated with revenue producing operations of an individual or firm. Although an individual or firm may not be in the business of building construction, the WCB may require it to register as an employer<sup>1</sup> and will classify it in a construction classification. This includes individuals building their own home<sup>2</sup> who hire a worker (including an unregistered labour contractor), as well as firms who undertake construction (in full or part) of the premises in which they (will) operate their business.

Where a firm or individual is already registered or should be registered with the WCB for its business and “non-industrial building construction” is also undertaken by that firm or individual, the multiple classification criteria outlined in Assessment Policy 1-37-2 will apply to determine if a construction classification will be added to the account. While the complete four-part test of multi-classification is not relevant in such cases, (i.e. non-industrial building construction activities will not generate sales to unaffiliated customers or clients) the remaining criteria will guide whether more than one classification will apply to an account:

- Each activity must be separate so that it does not contribute the risk of injury or occupational disease in another industrial activity of the employer.
- The industrial activity in question must not simply be to assist, support or service the employer's main industry.
- Each activity must generate an annual assessable payroll of at least four times the maximum wage rate or generate an annual assessable payroll that is at least 25 percent of the gross annual assessable payroll of all the employer's industrial activities.

In many cases, where a firm continues to operate its business while constructing a new site, the firm will have a construction classification added to its account.

### Example #1

A person is building a residential home for the purpose of living in it and hires unregistered labour contractors for the construction of the home. This person must register as an employer, and will be classified in construction by the WCB, and must pay assessments on payroll paid to the unregistered labour contractors.

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<sup>1</sup> Personal Optional Protection is available to non-incorporated employers engaged in non-industrial building construction.

<sup>2</sup> A new home under construction does not constitute a personal residence until it is occupied. Therefore, Assessment Policy 1-2-1 Exemptions from Coverage does not apply if the construction is not yet a personal residence.

**Example #2**

Company A Ltd. is opening a restaurant but conducts construction renovations (with unregistered labour contractors) to the restaurant's building prior to its opening. While the building is under renovations, Company A Ltd. must register with the WCB as an employer in construction to cover its workers. Once the construction is complete and the firm is operating the restaurant, the WCB will change the firm's classification to that of restaurant.

**Example #3**

Company B Ltd. is a banking firm registered with the WCB. It conducts renovations to its property while continuing with its normal business operations in banking. Since the company hires unregistered contractors for the renovations, the relevant multiple classification criteria must be applied to the firm to determine whether a construction classification should be added to the firm for the duration of its renovations.

**Example #4**

Company C Ltd. operates two restaurants and is constructing a new building for its third restaurant. Since the company hires unregistered contractors for the renovations, the relevant multiple classification criteria must be applied to the firm to determine whether a construction classification should be added to the firm for the duration of its construction.