

Rule 2 - Premium and Payroll

Revision History			
Type	Effective Date	Circular	Notes
Revision	01/01/2024	C-23-6	Workers Compensation Updates to Payroll Inclusions and Exclusions
Revision	07/01/2023	C-23-4	NCCI Items B-1447 & E-1410 - Revisions to Manual Rules Related to the Inclusion of COVID-19 Claims in Experience and Merit Rating and Manual Rules Related to the COVID-19 Pandemic – Paid Furloughed Employees and Final Premium Reporting
Revision	07/01/2021	C-21-12	Revisions to North Carolina Basic Manual for Workers Compensation and Employers Liability
Revision	03/01/2020	C-20-31	NCCI Item B-1443 – Revisions to NCCI Manual Rules Related to the COVID-19 (Coronavirus) Pandemic – Removal of Expiration Date
Revision	03/30/2020	C-20-17	Revisions to North Carolina Basic Manual Rules Related to the COVID-19 (Coronavirus) Pandemic
Revision	10/01/2017	C-17-6	NC Basic Manual NCCI Item B-1433 - Part 1 Rules 1 and 2
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A. Premium

Premium is calculated on the basis of the total payroll paid or payable by the insured for services of employees who are eligible to receive workers compensation benefits for work-related injuries as provided by the policy. Some classifications may have a different premium basis. See example below:

Example:

Premium is calculated for domestic workers on a per capita basis instead of payroll. Domestic workers are employees who perform household duties. See [Rule 3-C](#) for additional

information.

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 money or substitutes for money.

1. Includes:

- a. Current wages or salaries paid during the current policy period.
- b. Total pay received by an employee for commissions and draws against commissions.
- c. Service charges and automatic gratuities received by employees. Service charges and automatic gratuities are set percentages or fees added to a bill or contract where the customer does not: determine the amount of percentage or fee; determine who receives the percentage or fee, and; have the ability to reduce the payment amount below the set percentage or fee.
- d. Bonuses and stock bonus plans. See [Rule 2-D](#).
- e. Extra pay for overtime work except as provided in [Rule 2-C-2](#).
- f. Pay for holidays, sick leave, or vacations. See [Rule 2-G-3](#) for allocation of payroll for employees subject to more than one classification code.
- g. Employer payments withheld from employees to meet statutory obligations for insurance and/or pension plans, such as the Federal Social Security Act or Medicare.
- h. Payment to employees on any basis other than time worked, such as piecework, profit sharing, or incentive plans.
- i. (RESERVED FOR FUTURE USE)
- j. The rental value of a house or apartment provided to an employee based on comparable accommodations.
- k. The value of lodging, other than an apartment or house, received by an employee as part of their pay as shown in the insured's records.
- l. The value of meals received by employees as part of their pay as shown in the insured's records.
- m. The value of store certificates, credits, merchandise, or any other substitute for money received by employees as part of their pay.

- n. Payment for retirement or cafeteria plans (Internal Revenue Code 125), health savings accounts, flexible spending accounts, employee savings plans, or salary reduction that is made through employee-authorized salary reductions from the employee's gross pay.
- o. Employee-authorized reductions from an employee's gross pay for purchasing stock options or qualified or nonqualified employee stock purchase plans (ESPP) in payroll. The salary reduction amounts are included in payroll for the policy year in effect when the salary reduction was made, even when the plan is a portion of a cafeteria plan.
- p. Employer contributions to an employee's cashless exercise of stock options in payroll.

Exception: Exclude from payroll employer contributions to the exercise of stock options except for employer contributions to an employee's cashless exercise of stock options.

- q. The value of equity-based compensation plans, other than stock options and stock purchase plans, at the time of vesting in payroll. This applies when vesting is on a scheduled or annual basis such as grade vesting, scheduled cliff vesting, performance goals vesting and milestones anniversaries vesting.

Equity based compensation plans, other than stock options and stock purchase plans includes stock transfers, stock warrants, restricted stock, restricted stock units, phantom stock plans and stock appreciation rights.

- r. Deferred compensation distribution payments made to current employees from an employer's contributions to previously deferred wages in payroll. This applies to amounts paid during the policy period.
- s. The amount by which an employee's salary is reduced from gross pay to fund an employee-authorized deferred compensation plan in payroll. The salary reduction amounts are included in payroll for the policy year in effect when the salary reduction was made, even when the plan is a portion of a cafeteria plan. Employee-authorized deferred compensation plans include pension plans, equity-based compensation plans and other deferral plans.
- t. Payroll retroactive wages or salaries paid to a current employee when the payment is within the three-year audit period of the policy, and the employee was actively employed by the employer at the time wages were paid, or during any portion of the current policy period.
- u. Davis-Bacon Act wages (A federal law that establishes the requirement for paying the local prevailing wages on public works projects) or wages from similar prevailing wage laws.
- v. Annuity plans.
- w. Expense reimbursements and flat expense allowances paid to employees in payroll

when the employer's verifiable records do not confirm that the employee expense or allowance was incurred as a valid business expense.

- x. Payment for filming commercials for the insured, excluding subsequent residuals that are earned by the commercial's participant(s) each time the commercial appears in any type of media.

2. Excludes:

- a. Tips or other gratuities received by employees. Tips or other gratuities are optional payments added to a bill or contract where the customer: determines the amount of payment; determines that the employees receive the payment for services provided, and; has the option to not add a payment to the bill or contract.
- b. Group insurance or group pension payments made by an employer 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 similar prevailing wage laws, provided the pension trust is qualified under the Internal Revenue Code, Sections 401(a) and 501(a).
- d. The value of special rewards for individual invention or discovery.
- e. Payments for dismissal or severance 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 and flat expense allowances paid to employees only when all of these conditions are met:
 - 1) The employer's verifiable records confirm that the expenses or allowances are incurred as a valid business expense.
 - 2) The amount of each employee's expense or allowance is shown separately in the records of the employer.
 - 3) The amount of the expense or allowance approximates the actual expense incurred by the employee in the conduct of their work.
 - 4) The expense reimbursement and/or flat expense allowances paid to the employee must be in addition to, not in lieu of, the wages earned by the employee.
- i. A maximum expense allowance of \$75 per day when:
 - 1) It can be verified that the employee was away from home overnight on business for the employer.

- 2) The employer did not maintain verifiable records for the employee's daily incurred business expenses and
- 3) The daily expense allowance paid to the employee is in addition to, not in lieu of, the wages earned by the employee.

Include the remaining nonverified daily business expense in excess of \$75 per day in payroll.

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.

Example of payroll exclusions:

Consider an employer that allows a \$0.55 per mile reimbursement for an employee that uses a personal vehicle for company business. The employer considers the \$0.55 per mile reimbursement a fair estimate of actual incurred expenses. The employee drives 100 miles in a personal vehicle for the company. The \$55.00 reimbursement (100 miles x \$0.55) is a fair estimate and is excluded from payroll.

- j. Meal money for late work
- k. Work uniform allowance
- l. Disability income benefits paid to an employee by a third party such as an insured's group insurance carrier
- m. Employer-provided perks including, but not limited to:
 - 1) Use of company car
 - 2) Airplane flights
 - 3) Incentive vacations (e.g., contest winners)
 - 4) Discounts on property or services
 - 5) Club memberships
 - 6) Tickets to entertainment events
 - 7) Educational assistance
 - 8) Relocation and moving expenses
- n. Employer contributions to employee benefit plans such as:

- 1) Employee savings plans
- 2) Retirement plans
- 3) Cafeteria plans (Internal Revenue Code 125)
- 4) Health savings accounts
- 5) Flexible spending accounts

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

- o. Deferred compensation payments to retired or terminated employees during the current policy period, when the employee is not employed at the time of distribution, and records are maintained to separate these payments.
- p. Employer contributions to qualified or nonqualified employee stock purchase plans.
- q. Employer contributions to the exercise of stock options except for employer contributions to an employee's cashless exercise of stock options.

Exception: Include employer contributions to the cashless exercise of stock options in payroll.

- r. Employer contributions to deferred compensation plans.
- s. The difference between the market price of stock and any discounted price paid by the employee to purchase stock.
- t. The market value of equity-based compensation plans. This applies when accelerated cliff vesting is triggered by an Initial Public Offering (IPO) of stock, or a change in majority ownership where the owner or owners before the change own less than one-half interest after the change.
- u. Retroactive wages or salaries paid to retired or terminated employees when:
 - The payment is within the three-year audit period of the policy
 - The employee was retired or terminated at the time wages or salaries were paid and
 - The employer maintains records that separate such payments.

C. Overtime

1. Definition

Overtime means hours worked for which there is an increase in the rate of pay:

- a. For work in any day or in any week in excess of the number of hours normally worked.

- b. For hours worked in excess of 8 hours in any day or 40 hours in any week.
- c. For work on Saturdays, Sundays, or holidays.

If a guaranteed wage agreement exists, overtime means only those hours worked in excess of the number specified in that agreement.

NOTE: Forms of incentive pay, commonly referred to as “shift differential” or “premium pay” associated with working other than normal day shift hours during the standard workweek are not considered overtime. See [Rule 2-C-2-d](#) for more information on premium pay.

Examples of incentive pay:

- *The hourly rate of pay for a night-shift worker is \$25, while the hourly rate for the day shift is \$15. The increase of the daytime rate of pay is premium pay. It should not be considered overtime and should not be excluded.*
- *An employee is normally not required to work on a holiday, but is paid for the holiday at the regular rate. If he or she does work on the holiday, he or she receives additional pay at time-and-a-half, resulting in his or her total pay then being 2 ½ times regular pay.*

2. Exclusions of Overtime Payroll

a. Payroll Records

Extra pay for overtime is excluded from payroll on which premium is calculated as indicated in the table below, provided that the insured's books and records are maintained to show overtime pay separately by employee and in summary by classification. Extra pay is the difference between the regular pay rate and the overtime pay rate multiplied by the number of overtime hours worked.

Example of overtime pay:

For the first 4 hours of overtime, the rate is time-and-a-half; thereafter, it is double time. If an employee continues to work after 12 hours total time, he or she is paid for an extra half hour as “supper money.” The extra pay earned for overtime, including the food money, is deducted.

Calculating Overtime

If the records show...	Then...
Extra pay earned for overtime separately...	The entire extra pay is excluded.
Total pay earned for overtime (regular pay plus overtime pay) in one combined amount, and time and one-half is paid for overtime...	1/3 of this total pay must be excluded.
Double time is paid for overtime and the	

total pay for such overtime is recorded separately...	1/2 of the total pay for double time must be excluded.
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NOTE: The only portion of the overtime payroll that is deductible is the amount in excess of wages that would have been applied if the overtime were compensated at the regular rate of pay.

Exception to Rule 2-C-2-a:

Exclusion of overtime pay does not apply to payroll assigned to any stevedoring classifications with a code number followed by the letter "F" (meaning it includes USL&H coverage).

b. Hours Worked

Extra pay for overtime is deducted only if the employee receives extra pay for:

- Working more than 8 hours per day or 40 hours per week, or
- Hours worked in a day or week that are greater than the number of hours usual to the insured or industry. This may permit an overtime deduction if an employee works less than 8 hours per day or less than 40 hours per week (For example, if an employer regularly works a 32-hour workweek, any hours over 32 hours would be considered overtime).

No overtime deduction is permitted for wages earned by employees who work in excess of 40 hours per week but do not receive an increase in their normal hourly rate of pay for the overtime work.

Examples of overtime pay that may or may not be deductible:

- A night-shift employee works longer hours than usual and consequently receives an increase in rate of pay above the regular night-shift rate for extra hours. Provided the increase is paid at the traditional overtime rate of pay, the increased rate of pay over the regular night-shift rate for the extra hours is excluded.
- An employee works during his or her paid vacation period or on a paid holiday and receives straight time pay in addition to his or her regular vacation or holiday pay. No deduction is permissible because, under the basis of premium rule, unworked vacation pay or holiday pay must always be included in the payroll. In this case, we are dealing only with the straight time pay during the worked vacation period, none of which constitutes overtime.
- The normal working day is 7 hours. The hourly wage is \$10 for the first 6 hours and \$20 for the 7th hour. If any employee works more than 7 hours, he or she receives \$20 per extra hour.
 - An employee works 7 hours and receives \$80. There is no deductible overtime.

- An employee works 8 hours and receives \$100. The deductible overtime is \$10. It is the increment over the basic hourly wage of \$10, which is included in the wage paid for the 8th hour.
- An employee's normal work week is 40 hours for which he is paid \$10 per hour. The employee worked 44 hours in a particular week. For the overtime hours (the 41st through 44th), the employee earned \$15 per hour. The extra pay earned by the employee for overtime is \$20 and is excluded. The \$20 is calculated by multiplying the total wages for those hours worked in excess of 40 and deducting the normal hourly pay earned for the overtime hours from the total:
 - 44 hours for the week less 40 hours regular work week = 4 hours overtime
 - 4 x \$15 overtime pay less 4 x \$10 normal hourly wage = \$20 extra pay for overtime

If the employee had received \$10 per hour for the 41st through 44th hour, that employee would not have received extra pay for overtime.

c. Guaranteed Wages

Guaranteed wage contracts or agreements exist in certain industries under which the employee receives a guaranteed wage for work up to a specified number of hours per week, such as 50. For example, the guaranteed wage may be calculated on the basis of 40 hours at straight time and 10 hours at 1 ½ times the basic hourly wage. Under guaranteed wage plans of this general type, the full guaranteed wage is included in the premium calculation for any hours that an employee works up to the maximum number of hours covered by the guaranteed wage, regardless of how this wage is calculated. For guaranteed wage contracts or agreements, the overtime rule is applicable only to earnings in excess of the guaranteed wages.

Examples of guaranteed wages:

- A guaranteed wage agreement provides for a normal workweek of 50 hours, resulting in a guaranteed wage of \$550. This is computed on the basis of an hourly wage of \$10 per hour for the first 40 hours and \$15 per hour for the remaining hours. Any work in excess of 50 hours is compensated at \$15 per hour.
 - An employee works 50 hours and receives his or her guaranteed wage of \$550. There is no deductible overtime.
 - An employee works only 40 hours but still receives his or her guaranteed wage of \$550. There is no deductible overtime.
 - An employee works 55 hours and receives a total wage of \$625. The deductible overtime is \$25, which is the \$5 increment over the basic wage of \$10 and is included in the wage paid for the hours worked in excess of those covered by the guaranteed wage.
- In alternate weeks, an employee is available for emergency work, receiving an extra

day's pay. If called upon for such work, the employee also receives time-and-a-half for the hours worked, with a minimum of 4 hours straight time even though the emergency work should take only ½ hour.

- *During one week, the employee performed no emergency work. There is no deduction, because the extra pay for standby is part of the worker's regular pay.*
- *During another week, ½ hour of emergency work was performed. There is no deduction, because the 4 hours straight time received is a guaranteed wage.*
- *During yet another week, 3 hours of emergency work was performed. The deductible amount is the excess over the 4-hour minimum at straight time (the ½ hour straight time).*

d. Premium Pay

This rule applies with respect to higher rates of pay that are paid at the traditional overtime hourly rate of pay for work on Saturdays, Sundays, or holidays at the traditional overtime hourly rate, even though the employee has not worked the normal workweek, because work on these days has been regarded traditionally as overtime and not as part of the normal workweek.

Premium pay is extra compensation paid to employees who work nights, holidays, weekends, other special hours, or work under unusual conditions. This premium pay is not considered overtime pay when it is the normal pay for working these shifts.

Consider an employee that works a 40-hour night shift at a rate of \$15 per hour. The day shift rate of pay for the same work is \$10 per hour. No overtime deduction is made from the \$15 per hour since this is considered premium pay. If the night shift employee works more than the normal number of hours and receives pay in excess of the normal \$15 per hour, only the excess is considered overtime.

Examples of premium pay:

- A “swing shift” worker is paid at a premium rate for hours worked during odd hours although the total hours worked is within normal limits. There is no deductible overtime since premium pay is not overtime pay.
- *An electric meter reader is paid an hourly wage but also receives a bonus for reading a certain number of meters above a standard number. If the employee works overtime, he or she receives 1 ½ times his or her hourly rate and 1 ½ times the regular bonus. The extra half-time and extra portion of the bonus paid for work during the overtime hours is deductible.*
- *An employee is paid on a piecework basis. If the rate of pay per piece is increased after the employee works the normal number of hours, the excess portion above the*

working hours should not be treated as overtime.

- *An employee is paid an hourly wage that is increased if his or her production in normal work hours exceeds a specified standard. The increase is not deductible as overtime.*

D. Payroll Limitations

1. Specific limitations may apply to:
 - a. Payroll for executive officers, members of limited liability companies, partners, and sole proprietors
 - b. Classifications with notes that indicate 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:
 - 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
 - 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. For the purpose of applying the payroll limitation rule, bonuses paid during the policy term must be earned during the policy term. 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](#).

Example of prorating bonuses for the purpose of applying the payroll limitation rule:

- Policy period is 9/1/14 – 9/1/15
- Period of employment is 52 weeks
- Amount of employee's annual bonus declared in December 2014 is \$1,560

Average weekly bonus to be added to average weekly wage is \$30 (\$1,560 divided by 52

weeks).

E. Executive Officers, Members of Limited Liability Companies, Partners, and Sole Proprietors

1. Executive Officers

Executive officers of a corporation or unincorporated association are the president, vice president, secretary, treasurer, or any other officer appointed in accordance with the charter or bylaws of such entity.

Executive officers may be paid by one or more corporations. In some cases, the multiple corporations may be insured by a single carrier under one or more policies. If so, the multiple corporations are considered a single unit with respect to the application of the executive officer rule. In all other cases, the rule applies on a per policy basis. For additional information regarding majority interest, see [Rule 3-A-14](#). For rules regarding combination of entities, refer to the **Experience Rating Plan Manual**.

In North Carolina, executive officers of a corporation or unincorporated association are eligible for benefits under North Carolina workers compensation statutes and/or regulations. An executive officer may opt to be excluded from coverage using the standard Partners, Officers and Others Exclusion Endorsement (WC 00 03 08). See N.C.G.S. 97.2 for more detailed information on executive officer inclusion or exclusion.

a. Classification Assignment

Executive officers must be assigned to the classification that applies to the principal operations in which the executive officer is engaged.

Exceptions:

- Executive officer payroll for officers who regularly and frequently engage in duties that are ordinarily performed by a superintendent, foreperson, or worker must be assigned to the governing classification.
- Executive officer payroll for officers who perform construction, erection, and/or stevedoring operations must be divided and assigned to the classifications that apply to the different operations of the executive officer, per the requirements of [Rule 2-G](#).

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 in the Miscellaneous Values section.

- 2) The maximum individual payroll for an executive officer is shown in the Miscellaneous Values section.
- 3) Payroll limitations listed in Rules 2-E-b-1 and 2-E-b-2 above 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:
 - The executive officer frequently visits the premises of the risk but does not perform any duties.
 - The executive officer frequently visits the premises of the employer for business conferences, directors' meetings, or similar duties, even if the officer is an employee or officer of another risk in the operations of which he/she takes an active interest.
 - The executive 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.
 - The executive 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:

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

c. Executive Officers Performing Flight Duties

If an executive officer acts as a pilot or member of the flying crew of an aircraft used in the insured's business, the payroll of that executive must be assigned as follows:

- 1) For each week that the executive officer did not perform flight duties, the classification of the principal operations in which the executive officer is engaged should be used.
- 2) For each week that the executive officer did perform flight duties, the officer's

payroll for that week should be assigned to the appropriate aviation - flying crew classification. However, if the executive officer's non-flight duties in that same week are subject to a higher rated classification, assign that higher rated classification for that week.

NOTE: These 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 aviation - flying crew 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 his or her duties.

2. Members of Limited Liability Companies (LLC)

In North Carolina, members of an LLC are eligible for benefits under North Carolina workers compensation statutes and/or regulations. A member may opt to be included on the policy using the Standard Sole Proprietors, Partners, Officers and Others Coverage Endorsement (WC 00 03 10). When a member of an LLC is included on the policy, that member receives the same policy coverage as an employee.

a. Treatment

For the purposes of this rule, references to members or managers will collectively be referred to as members of LLCs. For coverage election purposes, a member of an LLC is to be treated as a partner or sole proprietor.

b. Payroll Determination

Payroll for each member electing coverage is based on the payroll amount shown in the Miscellaneous Values section.

3. Partners or Sole Proprietors

Partners and sole proprietors are not normally included in the category of employees, but they may elect to be covered in the North Carolina workers compensation policy using the Standard Sole Proprietors, Partners, Officers and Others Coverage Endorsement (WC 00 03 10).

If a partner or sole proprietor elects coverage, he or she has the same status as employees under the policy.

Payroll for each partner or sole proprietor electing coverage is based on the payroll amount shown in the Miscellaneous Values section.

4. Applicable Endorsements

- Attach the Standard Sole Proprietors, Partners, Officers and Others Coverage Endorsement (WC 00 03 10) to include those individuals that are excluded by law but are permitted the option of inclusion.

- Attach the Standard Partners, Officers and Others Exclusion Endorsement (WC 00 03 08) to exclude those individuals that are included by law but are permitted the option of exclusion.

F. Wages for Time Not Worked

1. Idle Time

Idle time is downtime that occurs when employees are not working and the employer pays the employees for the time not worked.

All wages paid to the employee for idle time must be included in payroll. Wages paid during this time are assigned to the classification for work normally performed by the employee under the following circumstances:

- Delay or suspension of work due to weather conditions
- Delays while waiting for materials
- Delays while waiting for another party to complete its portion of the work
- Delays arising from breakdown in equipment
- “Stand by” time where employees such as operators of cranes, hoists, or other equipment are on the job but their active services are not continuously required
- Union requirements or special agreements between employer and employees calling for pay for idle time under specific circumstances
- Inability of non-striking employees to perform normal duties due to other employees who are on strike. If non-striking employees perform absolutely no work for their employer and are not present at their employer’s premises or job sites during a strike period, their payroll must be assigned to Code 8810 – Clerical Office Employees, provided adequate records are maintained by the employer.
- All other causes of a similar nature

NOTE: For idle time by construction, erection, or stevedoring risks refer to [Rule 2-F-2](#).

Example of wages paid for time not worked:

An insured’s employees regularly work 8 hours per day, 5 days a week. In a given week, there were two work stoppages for a total of 3 hours, because of delays in delivering of materials to the site. The employees were paid their regular rate of pay while idle for the 3 hours. The payroll is assigned to the classification for the work normally performed and is included in the policy’s payroll audit.

Note:

COVID-19 Pandemic - Assignment of Classification Code 8871-Clerical Telecommuter Employees for Temporary Change in Duties

Operations of a higher-rated classification that have been amended to clerical telecommuting due to the North Carolina governor-declared stay-at-home order qualify to be assigned to Classification Code 8871-Clerical Telecommuter Employees for the duration of the stay-at-home order. This provision shall apply while the operations perform duties consistent with Code 8871's definition, from when North Carolina's stay-at-home order took effect on March 30, 2020 and for up to 45 days after the stay-at-home order has been lifted. This provision shall **not** apply to operations that meet the definition of a classification code that includes Clerical Office Employees.

2. Wages Paid to Key Employees

Wages paid to key employees of construction, erection, or stevedoring risks must be classified based on the work that each one actually performs during the periods where no jobs are in progress.

Exception:

If the job duties of the key employees for construction, erection, or stevedoring risks consist exclusively of drafting or other office work, or if these employees are completely idle, the wages must be assigned to Code 8810. Code 8810 is not available for the office time of an employee assigned to classification code 5606. It is expected that an employee assigned to classification code 5606 will spend a considerable portion of time engaged in duties typically assigned to Code 8810.

G. Interchange of Labor

If an employee performs duties directly related to more than one properly assigned classification, per [Rule 1-D-3](#), his or her payroll may be divided among properly assigned classifications provided that:

1. The classifications can be properly assigned to the employer according to the rules of the classification system, and
2. The employer maintains proper payroll records which show the actual payroll by classification for each employee.
 - a. Records must document the actual time spent working within each job classification and an average hourly wage comparable to the wage rates for other employees within the employer's industry.
 - b. Estimated or percentage allocation of payroll is not permitted.

NOTE: If payroll records do not document the actual payroll applicable to each classification, the entire payroll of the individual employee must be assigned to the highest rated classification that represents any part of his or her work.

3. Payroll for holiday, vacation, sick pay, overtime, and all other forms of payroll that are not directly attributable to a specific classification code must be allocated to the classification code with the greatest amount of payroll applicable to the individual employee.

If none of the classification codes applicable to the employee have the greatest amount of payroll, the payroll for holiday, vacation, sick pay, overtime, and all other forms of payroll not directly attributable to a specific classification code must be allocated to the highest rated classification code applicable to the employee.

4. Some employees qualify for division of payroll between two or more basic classification codes and also engage in operations that are standard exception classifications 8810, 8742, 8748, and/or 8871. The payroll of these standard exception operations must be allocated to the basic classification code with the greatest amount of payroll applicable to that employee.

Exceptions to Rule 2-G:

- Code 8810 – Clerical Office Employees, Code 8871 – Clerical Telecommuter Employees, Code 8742 – Salespersons or Collectors – Outside, and Code 8748 – Automobile Salespersons are not available for division of payroll under this rule. However, when an interchange of labor exists between Code 8810 and Code 8871:
 - Code 8871 will be used when the employee spends more than 50% of work time telecommuting per [Rule 1-B-2-a](#).
 - Code 8810 will be used when the employee spends 50% or less of work time telecommuting per [Rule 1-B-2-a](#).
- The distribution of payroll for the employee may result in no single basic classification code that represents the highest amount of that employee's payroll. In such cases, the payroll included in the standard exception codes (8810, 8742, 8748, and 8871) will be assigned to the highest rated classification code that represents any part of the employee's work.
- This rule does not apply to miscellaneous employees. For additional information, refer to [Rule 1-E](#).

Examples of instances of interchange of labor where an employee's payroll may be divided between two or more classifications:

- *In a business that manufactures clocks, all employees must be assigned to Clock Mfg. (Code 3385), Clerical (Code 8810), Salespersons – Outside (Code 8742) or Drivers (Code 7380). In this example, division of payroll is only allowed for employees whose work is divided between activities described by Codes 3385 and 7380. Codes 8810 and 8742 are not eligible for division of payroll.*
- *In a business that sells furniture, all employees must be assigned to Store: Furniture*

& Drivers (Code 8044), Clerical (Code 8810) or Salespersons – Outside (Code 8742). No division of payroll is allowed in this example because drivers are already included in the basic classification. Codes 8810 and 8742 are not eligible for division of payroll.

- In a business that manufactures paper and also further processes this paper into wallpaper, all employees must be assigned to Paper Mfg. (Code 4239), Wallpaper Mfg. (Code 4279), Clerical (Code 8810), Salespersons – Outside (Code 8742) or Drivers (Code 7380). A division of payroll is allowed for employees whose work is divided among activities described by Codes 4239, 4279, and 7380. Codes 8810 and 8742 are not eligible for division of payroll.*

Note:

COVID-19 Pandemic - Assignment of Classification Code 8871-Clerical Telecommuter Employees for Temporary Change in Duties

Operations of a higher-rated classification that have been amended to clerical telecommuting due to the North Carolina governor-declared stay-at-home order qualify to be assigned to Classification Code 8871-Clerical Telecommuter Employees for the duration of the stay-at-home order. This provision shall apply while the operations perform duties consistent with Code 8871's definition, from when North Carolina's stay-at-home order took effect on March 30, 2020 and for up to 45 days after the stay-at-home order has been lifted. This provision shall **not** apply to operations that meet the definition of a classification code that includes Clerical Office Employees.

H. Subcontractors

1. North Carolina workers compensation laws provide that a contractor is responsible for the payment of compensation benefits to employees of its uninsured subcontractors. As such, the contractor must furnish satisfactory evidence to the carrier that the subcontractor has workers compensation insurance in force covering the work performed for the contractor. The following documents may be used to provide satisfactory evidence:
 - Certificate of insurance for the subcontractor's workers compensation policy
 - Certificate of Compliance issued by the North Carolina Department of Insurance to a self-insured subcontractor
2. For each subcontractor not providing such evidence of workers compensation insurance, additional premium must be charged on the contractor's policy for the uninsured subcontractor's employees in accordance with Subcontractor Table 1 and 2 below:

Subcontractor Table 1

<i>If the contractor has not furnished evidence of workers compensation</i>	<i>Then to calculate the additional</i>
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<i>insurance and...</i>	<i>premium...</i>
Furnishes complete payroll records of the subcontractor's employees...	Use the payroll detailed in the records.
Does not furnish complete payroll records and the subcontracted price does not reflect a definite payroll amount...	Use the full subcontracted price of the work performed during the policy period by the subcontractor as payroll.
Does not furnish complete payroll records, but documentation of a specific job discloses a definite amount of the subcontracted price represents payroll...	Use the payroll amount indicated by the documentation as the payroll, subject to the minimums in Subcontractor Table 2 below.

Subcontractor Table 2

<i>If the job involves:</i>	<i>Then the minimum to calculate additional premium is:</i>
Mobile equipment with operators (such as, but not limited to earth movers, graders, bulldozers or log skidders)...	Not less than 33 1/3% of the subcontracted price
Labor and material...	Not less than 50% of the subcontracted price
Labor only...	Not less than 90% of the subcontracted price
Piecework...	Not less than 100% of the subcontracted price (The entire amount paid to pieceworkers must be the payroll.)

3. Vehicles with chauffeurs, drivers, helpers, or messengers entitled to benefits under workers compensation insurance law may be engaged under verbal or written contract. The amount used to calculate the premium is determined in the following manner:

Subcontractor Table 3

<i>If the owner of such vehicles has not furnished evidence of workers compensation insurance and...</i>	<i>Then...</i>
Payroll can be obtained...	The total payroll of these drivers must be included as payroll of the insured employer that contracted for the vehicles.
Payroll cannot be obtained or the driver is an owner-operator and does not receive a set payroll...	1/3 of the total contract price for the vehicles must be included as payroll of the drivers.
The contract price does not include the cost of fuel, maintenance or other services	The value of these goods and services

provided to the owner or the owner-operator of a vehicle under contract... must be added to the contract price before determining the 1/3 amount.

4. In all cases, the classification applicable to payroll for subcontractors is based on the same classification that would have applied if the individuals were employees of the contractor.
5. In all cases, if an experience modification has been established for the contractor, this experience modification must be applied to the premium developed for the uninsured subcontractor.

I. Voluntary Compensation Insurance

Premium is determined on the basis of the workers compensation rules, classifications, and rates in this manual if North Carolina is the designated workers compensation law in the schedule on the Voluntary Compensation and Employers Liability Coverage Endorsement (WC 00 03 11 A).

When Voluntary Compensation Insurance is provided for a group of employees, payroll records must be maintained separately by the insured for the designated group of employees.

For additional information, refer to [Rule 5-C-1](#).

J. Volunteer Workers

To the extent coverage is provided for volunteer workers, premium is determined on the basis of payroll normally received by and assigned to the classification for non-volunteer employees doing same or similar work.

K. Migrant and Seasonal Agricultural Workers

To the extent coverage is provided for migrant and seasonal agricultural workers, premium is determined by the carrier based on its evaluation of the exposures presented by the risk.