June 26, 2012

West Virginia
Workers' Compensation Surcharge Applicability Summary

When determining premium tax and surcharge applicability a carrier needs to look to the underlying benefits being provided for the corresponding premiums. Premiums reported as Line 16 premiums ("workers' compensation") on a carrier's Property and Casualty Annual Statement are assessed based upon whether the coverage provided is prescribed by the State workers' compensation laws (State Act), Federal workers' compensation laws and statutes (Federal Acts) or provides Employers' Liability insurance against the common law liability for injuries to employees. Under no circumstances are any premiums subject to both the surcharges under Chapter 23 and the taxes and surcharge under Chapter 33 of the West Virginia Code.

State Act

- Premiums received for State Act workers' compensation coverage are subject to the new private market debt reduction and regulatory surcharges of W. Va. Code § 23-2C-3(f).

Federal Acts

- Premiums received for Federal Acts coverage and Employers' Liability are subject to the premium taxes and surcharge of W. Va. Code Chapter 33.

  Federal Acts coverage includes USL&H, Admiralty, FELA, etc. These Federal Acts premiums are distinguished by the addition of the suffix "F" or "M" to the advisory classification codes filed in West Virginia.

Employers' Liability

  Special Note – Employers' Liability Treatment: The construct of the advisory loss costs used for workers' compensation premium requires further explanation on the treatment of premium taxes and surcharges for Employers' Liability premium. Employers' Liability insurance is casualty liability coverage and is regulated by Chapter 33 and subject to the premium taxes and the surcharge of that chapter.

  However, each advisory loss cost classification filed by the State's designated workers' compensation rating organization contains a charge for providing the standard limits of Employers' Liability coverage which can not be easily isolated from each classification. So it has been determined that the corresponding premium collected for each approved loss cost classification shall default to the premium tax and surcharge applicable to the underlying loss cost. That is, the standard limits for Employers' Liability coverage need not be treated separately when determining tax and surcharge applicability of loss cost classifications.

  If the corresponding loss cost classification provides State Acts coverage then the premium that is directly tied to that loss cost is subject to the debt reduction and regulatory surcharge of Chapter 23.

  If the corresponding loss cost classification provides Federal Acts coverage (e.g. USL&H, Admiralty, FELA, etc.) then the premium that is directly tied to that loss cost is subject to the premiums taxes and surcharge of Chapter 33.

  This determination is only applicable to the standard limits of Employers' Liability coverage when included as part of an approved loss cost classification.

  All premiums for increased limits Employers' Liability coverage are subject to the premium taxes and surcharge of Chapter 33.

Federal Coal Mine

- Federal Coal Mine Health and Safety Act and State Act coverage for coal mine occupational disease are not subject to experience rating, premium discounts or retrospective rating. The benefits covered determine whether the premium is subject to the premium taxes and surcharge of Chapter 33 or the debt reduction and regulatory surcharge of Chapter 23.

Benefits covered under the Federal Coal Mine Health and Safety Act (black lung only) are Federal Acts benefits and subject to the premium taxes and surcharge of Chapter 33.

Benefits covered under the State Act of West Virginia are State Act benefits and are subject to the debt reduction and regulatory surcharge of Chapter 23.

Deductible Credits

- Deductible Credits – Premiums subject to the premium taxes and surcharge of Chapter 33 (e.g. Federal Acts, increased limits EL) are assessed net (after) the application of an experience modification factor, state approved schedule rating plan, deductible credit plan, premium discount plan, etc. The premium taxes and surcharge of Chapter 33 are assessed on the policyholder's direct premium.

  Premiums subject to the debt reduction and regulatory surcharge of Chapter 23 are also assessed on premium after the application of any of the premium modification plans, except the deductible credit amount. So when carriers calculate the debt reduction and regulatory surcharges of Chapter 23, they need to take the net premium (after all premium modifications) and add back the amount the premium was reduced for any deductible credits to determine the assessable amount. The reason that this is necessary is that deductible plans are a form of self insurance and the self insured workers' compensation community in WV is also subject to a debt reduction and regulatory surcharge. To retain equity in the assessment of workers' compensation surcharges, private carrier surcharges must include any premium reduction resulting from the application of a deductible plan.

Terrorism

- Premium collected in conjunction with the mandatory Foreign and Domestic Terrorism Premium endorsements of the workers' compensation policy are subject to the debt reduction and regulatory surcharges of Chapter 23.

WEST VIRGINIA MISCELLANEOUS RULES

WEST VIRGINIA WORKERS COMPENSATION PREMIUM ALGORITHM

(July 1, 2008)

The following algorithm provides the framework for premium charges and credits. It also identifies how the West Virginia surcharges apply based on each premium element.*

W. Va. Code § 23-2C-3(f) provides for the deficit reduction and regulatory surcharges to be assessed on only those premiums received for coverage under Chapter 23 (i.e. State Act workers' compensation coverage). Premiums received by private market carriers for coverage for Federal Acts (i.e. USL&H, Admiralty, FELA, Fed Black Lung) and premium for excess employers' liability remain subject to the premium taxes and the surcharge under Chapter 33 of the West Virginia Code. Under no circumstances shall any premiums be subject to both the surcharges under Chapter 23 and the taxes and surcharge under Chapter 33 of the West Virginia Code.

1		State Act Manual Premium	[(SUBJECT PAYROLL/100) * RATE] {State Act Premium Only, Excludes Federal Classification Codes F & M}
2	+	Federal Acts Manual Premium	[(SUBJECT PAYROLL/100) * RATE] {Federal Acts Premium Only ... USL&H Act, Admiralty Law and FELA (F & M classification codes)}
3	+	Supplementary Disease (foundry, abrasive, sandblasting) (State Act)	[(SUBJECT PAYROLL/100) * DISEASE RATE] {% Applied to the portion of State Act Premium Only, Excludes Federal Classification Codes F & M}
4	+	Supplementary Disease (foundry, abrasive, sandblasting) (Federal Acts)	[(SUBJECT PAYROLL/100) * DISEASE RATE] {% Applied to the portion of Federal Acts Classification Codes (F & M classification codes)}
5	+	USL&H Exposure for non-F-classification codes	[(SUBJECT PAYROLL/100) * (RATE * USL&H FACTOR]
6		**TOTAL MANUAL PREMIUM**	Total of all Class Code Premium ----- [Rows 1 + 2 + 3 + 4 + 5]
7	+	Waiver of Subrogation Factor **(State Act)	[Rows (1 + 3) * Waiver Rate %] {% applied to the portion of Total State Act Manual Premium where waiver is applicable, subject to minimum charge}
8	+	Waiver of Subrogation Factor** (Federal Acts)	[Rows (2 + 4 + 5) * Waiver Rate %] {% applied to the portion of Total Federal Acts Manual Premium where waiver is applicable, subject to minimum charge}
9	+	Employers Liability (E/L) increased limits factor	[% applied to Total Manual Premium]
10	+	Employers Liability (E/L) increased limits charge	[Balance to E/L increased limits minimum premium]
11	+	Employers Liability increased limits factor (Admiralty, FELA)	[Factor applied to the portion of Manual Premium where Admiralty/FELA coverage is applicable]
12	+	Employers Liability/Voluntary Compensation flat charge	[Coverage in Monopolistic State Funds]
13	-	Small Deductible Credit (State Act)	[Rows (1 + 3) * Deductible Credit %] {State Act Premium Only}
14	-	Small Deductible Credit (Federal Acts)	[Rows (2 + 4 + 5) * Deductible Credit %] {Federal Acts}
15		**TOTAL SUBJECT PREMIUM**	[Rows 6 + 7 + 8 + 9 + 10 + 11 + 12 - 13 - 14]
16	x	Experience Modification (Modified Premium -State Act)	[Rows (1 + 3 + 7 - 13) * Emod Factor] {State Act Premium Only}
17	x	Experience Modification (Modified Premium - Fed Acts and EL)	[Rows (2 + 4 + 5 + 8 + 9 + 10 + 11 + 12 -14) * Emod Factor] {Federal Acts and EL Premium}
18		**TOTAL MODIFIED PREMIUM**	[Row 16 + 17]
19	x	Schedule Rating factor (State Act)	[Row 16 * (1-SR credit %) or (1+SR debit %) {State Acts Premium Only}
20	x	Schedule Rating factor (Fed Acts & EL)	[Row 17 * (1-SR credit %) or (1+SR debit %) {Fed Acts and EL Premium Only}
21	+	Supplemental Disease Exposure (Asbestos)[NOC[[†] (State Act)	[(SUBJECT PAYROLL/100) * DISEASE RATE] {% Applied to the portion of State Act Premium Only, Excludes Federal Classification Codes F & M}
22	+	Supplemental Disease Exposure (Asbestos)[NOC][[†] (Fed Acts)	[(SUBJECT PAYROLL/100) * DISEASE RATE] {% Applied to the portion of Federal Acts Classification Codes (F & M classification codes)}
23	+	Atomic Energy Radiation Exposure[NOC][†]	[(SUBJECT PAYROLL/100) * Carrier Assigned Charge]
24	+	Charge for nonratable catastrophe loading[†] (State Act)	[(SUBJECT PAYROLL/100) * CATASTROPHE RATE] {% Applied to the portion of State Act Premium Only, Excludes Federal Classification Codes F & M}
25	+	Charge for nonratable catastrophe loading[†] (Fed Acts)	[(SUBJECT PAYROLL/100) * CATASTROPHE RATE] {% Applied to the portion of Federal Acts Classification Codes (F & M classification codes)}
26	+	Aircraft Seat Surcharge	[per passenger seat surcharge]
27	+	Balance to Minimum Premium (State Act)	[Balance to minimum premium at Standard Limits] (State Act)
28	+	Balance to Minimum Premium (Admiralty, FELA)	[Balance to minimum premium at Standard Limits] (Admiralty, FELA)
29		**TOTAL STANDARD PREMIUM**	[Rows 19 + 20 + 21 + 22 + 23 + 24 + 25 + 26 + 27 + 28]
30	-	Premium Discount[§] (State)	[Rows 19 + 21 + 24 + 26 + 27] * Premium Discount Factor {State Act Premium Only}
31	-	Premium Discount[§] (Fed and EL)	[Rows 20 + 22 + 23 + 25 + 28] * Premium Discount Factor {Federal Acts and EL Premium Only}
32	+	Coal Mine Disease Charge (State)	[(SUBJECT PAYROLL/100) * DISEASE RATE] {Disease portion for state benefits only}
33	+	Coal Mine Disease Charge (Fed)	[(SUBJECT PAYROLL/100) * DISEASE RATE] {Disease portion for federal benefits only}
34	+	Expense Constant	
35	+	Foreign Terrorism	[(PAYROLL/100) * RATE]
36	+	Domestic Terrorism, Earthquakes and Catastrophic Industrial Accident (DTEC)	[(PAYROLL/100) * RATE]
37		**ESTIMATED ANNUAL PREMIUM[±]**	[Row 29 - 30 - 31 + 32 + 33 + 34 + 35 + 36]
38	+	WV Regulatory Surcharge	See a. Regulatory Surcharge Calculation
39	+	WV Deficit Reduction Surcharge	See b. WV Deficit Reduction Surcharge Calculation
40	+	WV Fire and Casualty Surcharge	See c. WV Fire and Casualty Surcharge Calculation

a. Regulatory Surcharge Calculation
   Rows (+13 + 19 + 21 + 24 + 26 + 27 - 30 + 32 + 34 + 35 + 36) * Published Reg Surcharge %

b. Deficit Reduction Surcharge Calculation
   Rows (+13 + 19 + 21 + 24 + 26 + 27 -30 + 32 + 34 + 35 + 36) * Published Deficit Reduction Surcharge %

c. WV Fire and Casualty Surcharge
   Rows (20 + 22 + 23 + 25 + 28 - 31 + 33) * WV Fire Casualty Surcharge 0.55%

@ Rows (20 + 22 + 23 + 25 + 28 - 31 + 33) are subject to the premium taxes of W. Va. Code Chapter 33

[**] Premium charges established for Waiver of Subrogation are not filed by NCCI for the voluntary market.

[NOC] = Not Otherwise Classified.

[†] Nonratable Element Premiums generated by nonratable portion of manual rate are applicable premium elements applied to the policy, however, not subject to experience rating or retrospective rating.

[±] Statistical calls for ratemaking data contain different definitions of "Standard Premium." Refer to Reporting Guidebook for the ***Annual Calls for Experience***.

[§] For policies subject to premium adjustments under a retrospective rating plan, premium discount does not apply.

Note: for short rate cancellations, short rate percentage/short rate penalty premium factor is subject to experience rating, included in Total subject Premium, and applied prior to Experience Modification.

[*] The above rating method would be used in absence of independent carrier filings.

June 26, 2012

Workers' Compensation Surcharges FAQs

- WC Surcharge rates must correspond with the effective date of the controlling policy

- WC Surcharge remittances are made at the same time premium taxes are remitted (April 25, July 25, Oct 25, and Mar 1)

- New tax forms are being finalized and will be mailed to all licensed carriers prior to July 1, 2008

- WC Surcharges are to be reflected on each premium invoice, regardless of payment interval

- Each WC Surcharge shall be listed as a separate line item

- Applicable WC Surcharges

	Debt Reduction	Regulatory
• July 1, 2007 - June 30, 2008	8.5%	6.3%
• July 1, 2008 - December 31, 2012	9.0%	5.5%
• January 1, 2013 - December 31, 2018	9.0%	5.0%