



October 3, 2019

DCRB CIRCULAR NO. 967

To All Members of the DCRB:

RE: APPROVAL OF DCRB FILING NO. 1904
REVISIONS TO BASIC MANUAL RULE V – PREMIUM BASIS
EFFECTIVE DECEMBER 1, 2019

The Delaware Insurance Commissioner has approved the DCRB's filing number 1904 regarding revisions to Basic Manual Rule V for policies effective 12:01 a.m., December 1, 2019 or later. The effective date of these changes aligns concurrently with the DCRB's normal comprehensive voluntary market loss cost and residual market rate revision filing, which was filed with the Commissioner on August 2, 2019. This coordination will consolidate necessary changes that members and other constituents make to policies, forms and systems.

These revisions result from the DCRB's participation in a multistate jurisdictional "Basis of Premium Working Group" (BOPWG). The primary goal of the BOPWG is to establish where possible a consistent treatment of remuneration in the calculation of workers compensation premium. The revisions approved by the Delaware Insurance Commissioner as part of DCRB Filing No. 1904 codify existing administrative procedure with one exception – the treatment of the fringe benefit component within a prevailing wage situation.

Current DCRB procedure allows for the exclusion of the fringe benefit amount of a prevailing wage contract when paid directly to the employee. For policies effective 12:01 a.m., December 1, 2019 or later, the fringe benefit amount of a prevailing wage contract shall be included as remuneration unless payment is directed to a separate group insurance product, pension plan or third party administrator. In accordance with this revision to Rule V, the language for Prevailing Wage Payments entry found in Section 2 of the Basic Manual in the General Auditing & Classification Information Section is also revised. This revision to the treatment of the fringe benefit component of a prevailing wage situation will bring Delaware in alignment with other states and the national perspective.

For additional details regarding these changes refer to DCRB Filing No. 1904, under the "Filings" tab of the DCRB website (<http://www.dcrb.com>). The Basic Manual will be updated on the DCRB website at a later date. For any questions regarding this Circular, contact Roxanne Walker, Senior Field Operations Analyst – Technical Services, at (215) 320-4578 or by email at rwalker@dcrb.com, Christina Yost, Manager – Field Operations, at (215) 320-4552 (cyost@dcrb.com) or Vincent Dean – Director – Classification & Field Operations at (215) 320-4490 (vdean@dcrb.com).

William V. Taylor
President

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND
RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY
INSURANCE**

Approved Effective December 1, 2019

INFORMATION PAGE *remains unchanged.*

PREFACE *remains unchanged.*

MEMBERSHIP *remains unchanged.*

TABLE OF CONTENTS *remains unchanged.*

SECTION 1 – Underwriting Rules-Rule I (General) through Rule IV (Classifications) *remains unchanged.*

RULE V – PREMIUM BASIS

A. *(No change to Item A.)*

B. REMUNERATION – PAYROLL

1. Definition

(No change)

2. Inclusions

Remuneration includes:

- a.** Wages or salaries ~~including retroactive wages or salaries;~~

Remuneration includes:

(No change to Items b. and c.)

- d.** Stock bonus plans – market value of stock at the time it is given to employee (refer to Exclusions, m.) as well as employees' contribution to equity based compensation plans other than stock options.

(No change to Items e. and i.)

- j.** The rental value of housing (e.g. an apartment or a house) provided for an employee based on comparable accommodations;

(No change to Items k. through n.)

- o.** Adjustments necessary to bring employees, such as tipped employees, to federal minimum wage as reported by the United States Department of Labor ~~shall be included;~~

(No change to Item p.)

- q.** Prevailing wage payments and fringe benefits paid directly to employees based on required government-specified minimum wage rates, including but not limited to the Davis-Bacon Act or the Delaware Prevailing Wage Act; (see Section 2 – General Auditing and Classification – Prevailing Wage Payments);

- r.** Annuity plans (see ~~Rulings and Interpretations- Section 1 Rule V, F.2-~~ Section 1 Rule V, F.2- Salary Reduction Plans);

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(No change to Items s. through u.)

v. Deferred or retroactive compensation paid to current employees at time of payment.

3. Exclusions

(No change to Item a.)

b. Payments made by an employer to a Group Insurance, Pension Plan or a third party administrator as part of a prevailing wage requirement. ~~to an employee directly in lieu of the foregoing because of the Provisions of a prevailing wage statute, including but not limited to the Delaware Prevailing Wage Act or the Davis-Bacon Act.~~ For additional information please see the General Auditing and Classification Information in Section 2 of this Manual.

(No change to Items c. through o.)

p. Deferred or retroactive compensation paid to retired or terminated employees not employed during the policy period, provided that records adequately show these employees were no longer employees during the policy period.

SECTION 1 – Underwriting Rules-Rule VI (RATING VALUES AND PREMIUM DETERMINATION) through Rule XVII (MEMBER CARRIER DISPUTES (DISPUTE RESOLUTION CONFERENCE)) *remains unchanged.*

SECTION 2

DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE

Approved Effective December 1, 2019

RATING VALUES *through CLASSIFICATIONS remains unchanged.*

SECTION 2 – GENERAL AUDITING & CLASSIFICATION INFORMATION (Automobile Dismantling through Prefabricated Metal Building Erection –Prefabricated Sheet Metal and Silo Erection – Metal) *remains unchanged.*

PREVAILING WAGE PAYMENTS

Prevailing wage statutes, including but not necessarily limited to the Davis-Bacon Act or the Delaware Prevailing Wage Act stipulate that contractors under Federal or State government contracts, respectively, are required to pay specific minimum wage rates and specified fringe benefits ~~that may be paid into an approved fund for distribution at a later date or paid directly to the employee. Where an employer is unionized, the payments will normally go into a fund. However, if the employer is not unionized, the payments will often be made directly to the employee.~~ When auditing these types of employers, all wages paid to the employees are included for premium calculation. Fringe benefits that are required may only be excluded from premium calculation when paid to group insurance plans, pension plans, or third party administrators. If fringe benefit payments are paid directly to an employee the fringe benefit amount is treated like wages and is included for premium calculation.

SECTION 2 – GENERAL AUDITING & CLASSIFICATION INFORMATION (Product Assembly Definition through Coal Mines) *remains unchanged.*

SECTION 2- CLASSIFICATION UNDERWRITING GUIDE *remains unchanged.*

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A. *(No change to Item A.)*

B. REMUNERATION – PAYROLL

1. Definition

(No change)

2. Inclusions

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a. Wages or salaries;

Remuneration includes:

(No change to Items b. and c.)

d. Stock bonus plans – market value of stock at the time it is given to employee (refer to Exclusions, m.) as well as employees' contribution to equity based compensation plans other than stock options.

(No change to Items e. and i.)

j. The rental value of housing (e.g. an apartment or a house) provided for an employee based on comparable accommodations;

(No change to Items k. through n.)

o. Adjustments necessary to bring employees, such as tipped employees, to federal minimum wage as reported by the United States Department of Labor;

(No change to Item p.)

q. Prevailing wage payments and fringe benefits paid directly to employees based on required government-specified minimum wage rates, including but not limited to the Davis-Bacon Act or the Delaware Prevailing Wage Act; (see Section 2 – General Auditing and Classification – Prevailing Wage Payments);

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Proposed Effective December 1, 2019

r. Annuity plans (see Section 1 Rule V, F.2– Salary Reduction Plans);

(No change to Items s. through u.)

v. Deferred or retroactive compensation paid to current employees at time of payment.

3. Exclusions

(No change to Item a.)

b. Payments made by an employer to a Group Insurance, Pension Plan or a third party administrator as part of a prevailing wage requirement.. For additional information please see the General Auditing and Classification Information in Section 2 of this Manual.

(No change to Items c. through o.)

p. Deferred or retroactive compensation paid to retired or terminated employees not employed during the policy period, provided that records adequately show these employees were no longer employees during the policy period.

SECTION 1 – Underwriting Rules-Rule VI (RATING VALUES AND PREMIUM DETERMINATION) through Rule XVII (MEMBER CARRIER DISPUTES (DISPUTE RESOLUTION CONFERENCE)) *remains unchanged.*

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Proposed Effective December 1, 2019

SECTION 2

RATING VALUES *through CLASSIFICATIONS* *remains unchanged.*

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