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R.C. 2296

To: The Members of the Board

Classification Code 8039 – Department Store Retail - Payroll Requirement
Effective Date - April 1, 2012

In accordance with the authorization of the NYCIRB Underwriting Committee, and approval by the New York State Department of Financial Services, we hereby introduce amendments to the New York Workers Compensation and Employers Liability Manual regarding Classification Code 8039 – Department Store Retail, with an effective date of April 1, 2012.

The revision to Classification Code 8039 reflects an increase in the payroll threshold used in order to be classified under this code. New York’s new minimum payroll requirement for this code is $900,000, adjusted from the previous threshold of $400,000 which has been in effect for a number of years.

To accommodate this change, the following pages from the NY Workers Compensation and Employers Liability Manual have been modified and are attached: a) NY Rulings and Interpretation, Code 8039, Digest Page D-73; and b) Part II, Classification Section, Page C-85.

The changes are also included in an updated version of the New York Workers Compensation & Employers Liability Manual which is available via the Board’s website at: www.nycirb.org.

Very truly yours,

Monte Almer
President

WVT:tg
Encl.
8039 .......... Department Store—retail

Operations Covered

This classification applies to retail stores which have various departments each selling a specific type of merchandise.

If a department store has more than one location, each must meet all three of the following conditions in order to qualify for assignment of Code 8039.

1. The payroll subject to this classification is to be at least $900,000 per annum.

2. The merchandise handled must include:
   a. Wearing apparel; and
   b. Linens/domestics; and
   c. Home furnishings (other than furniture); and
   d. Two or more of the following: Cosmetics  Hardware  Sporting goods  Furniture  Jewelry  Stationery/greeting cards  Giftware  Luggage  Toys

3. The total combined annual sales of wearing apparel, linens/domestics, and house furnishings (other than furniture) must exceed 50% of the total annual sales of all merchandise sold. Also, the total annual sales of wearing apparel, jewelry and cosmetics may not exceed 80% of the total annual sales.

This classification includes making custom house furnishings such as draperies, slip covers, and window shades.

This classification also covers the installation of house furnishings, such as draperies and rods, slip covers, window shades, venetian blinds, carpets, linoleum and non-ceramic floor tiles.

Operations Not Covered

1. Concessions in a department store are rated on the basis of the operations performed by the concessionaire and are not assigned to the department store classification.

2. The installation (other than delivery) and the service or repair of household appliances such as television sets, refrigerators, washing machines and air conditioners. Assign Code 9519 "Household Appliances—Electrical—Installation, Service or Repair—& Drivers."

3. The installation of automobile accessories, tires, air conditioners, and light repair work on automobiles. Assign Code 8391 "Automobile Service Station & Drivers."

8043 .......... Retail Store NOC—including service of food—not restaurants

Any location at which 50% of the sales is derived from the service of food consumed on the premises shall be assigned to either Code 9071 “Restaurant—Full-Service—including entertainers and/or musicians”, Code 9072 “Restaurant—Fast Food & Drivers” or Code 9074 “Bar, Dance Club, Lounge, Nightclub or Tavern—including entertainers and/or musicians.” The term “food” as used in this classification does not include ice cream and soft drinks.
DEPARTMENT STORE-retail 8039
Includes installation of house furnishings and shall apply to each location of a risk at which all of the following conditions exist:

1. The payroll subject to this classification is at least $900,000 per annum.

2. The merchandise handled must include:
   a. Wearing Apparel
   b. Linens/Domestics
   c. House Furnishings (other than furniture)
   d. Two or more of the following:
      Cosmetics       Luggage
      Furniture       Sporting Goods
      Giftware        Stationery/Greeting Cards
      Hardware        Toys
      Jewelry

3. The total combined annual sales of items 2.a., 2.b. and 2.c. above must exceed 50% of the total annual sales. Also, the total annual sales of wearing apparel, jewelry and cosmetics must not exceed 80% of the total annual sales.

DRUG or Cigar STORE—retail—INCLUDING SERVICE OF FOOD—not restaurants 8043
Any location at which more than 50% of the sales is derived from the service of food consumed on the premises shall be assigned to Code 9071, Code 9072 or Code 9074. The term food as used in this classification does not include ice cream and soft drinks.

DRUG or Cigar STORE—NO SERVICE OF FOOD—retail 8017
The service of ice cream and soft drinks is included under this classification.

DRUG STORE—wholesale 8047

DRY CLEANING or LAUNDRY Collecting or DISTRIBUTING STORE 8017
No dry cleaning or laundering at the same location.

DRY CLEANING or LAUNDRY Store—SELF-SERVICE 8017
No dry cleaning or laundering at the same location.

DRY GOODS STORE—retail 8008

DRY GOODS STORE—wholesale 8032

FISH, Meat or Poultry STORE—retail 8031
Includes incidental preparation of meats and produce. Separately rate slaughtering operations as Code 2081.

FISH, Meat or Poultry STORE—wholesale 8021
Code 8021 and Code 2089 "Packing House" shall not be assigned to the same risk unless the operations described by these classifications are conducted as separate and distinct businesses.

FLORIST STORE & Drivers 8001
Includes service away from store premises. Separately rate cultivating or gardening as Code 0035.