February 20, 2015

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R.C. 2385

To: The Members of the Board

    Code 8033 - ‘Supermarket – Retail’ - Clarification
    Effective Date: April 1, 2015

In accordance with approval by the New York State Department of Financial Services (DFS) and authorization by the NYCIRB Underwriting Committee, amendments to the New York Workers Compensation and Employers Liability Manual are being provided regarding clarifying language for Classification Code 8033, ‘Supermarket – Retail.’ These changes are approved for new and renewal business with effective dates on or after April 1, 2015.

The current information in the Classification and Digest of Rulings sections of the Manual has been updated to reflect explanatory language regarding retail supermarkets which have bakery operations. The changes were made to affirm the existing assignment that a bakery operation is to be separately rated under Code 2003 ‘Bakery & Route Salespersons, Route Supervisors, Drivers’ and not to be included under Code 8033 ‘Supermarket–Retail.’ Also included are additional clarifications regarding supermarket operations.

The pages which have been updated in the New York Workers Compensation and Employers Liability Manual are as follows:

- Classification Section, Page C-87 – updated phraseology for Code 8033.
- Digest Section, Pages D-71 and D-72 – reflecting the digest clarifications noted above.

Please note that these 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.
<table>
<thead>
<tr>
<th>Classification</th>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poultry, Meat or Fish STORE—retail</td>
<td>8031</td>
<td>Includes incidental preparation of meats and produce. Separately rate slaughtering operations as Code 2081.</td>
</tr>
<tr>
<td>Poultry, Meat or Fish DEALER—wholesale</td>
<td>8021</td>
<td>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.</td>
</tr>
<tr>
<td>RECORd, Compact Disc, Video or Audio Cassette STORE—Retail</td>
<td>8072</td>
<td>Not applicable to store locations where more than 50% of the gross receipts is in the service of food or the sale of musical instruments, computers or other hardware, or household or electronic equipment.</td>
</tr>
<tr>
<td>RETAIL STORE NOC—INCLUDING SERVICE OF FOOD—not restaurants</td>
<td>8043</td>
<td>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.</td>
</tr>
<tr>
<td>RETAIL STORE NOC—NO SERVICE OF FOOD</td>
<td>8017</td>
<td>The service of ice cream and soft drinks is included under this classification.</td>
</tr>
<tr>
<td>SHEET MUSIC STORE—retail</td>
<td>8072</td>
<td>Not applicable to store locations where more than 50% of the gross receipts is in the service of food or the sale of musical instruments, computers or other hardware, or household or electronic equipment.</td>
</tr>
<tr>
<td>SHIP CHANDLER—wholesale</td>
<td>7999</td>
<td></td>
</tr>
<tr>
<td>SHOE STORE—retail</td>
<td>8008</td>
<td></td>
</tr>
<tr>
<td>SHOE STORE—wholesale</td>
<td>8032</td>
<td></td>
</tr>
<tr>
<td>SOFTWARE, Book, Record, Compact Disc, Video or Audio Cassette STORE—Retail</td>
<td>8072</td>
<td>Not applicable to store locations where more than 50% of the gross receipts is in the service of food or the sale of musical instruments, computers or other hardware, or household or electronic equipment.</td>
</tr>
</tbody>
</table>
| SUPERMARKET—retail | 8033 | Applicable to a combined retail meat, grocery and provision “supermarket” type store provided that the sale of fresh and cured meats, fish or poultry does not exceed 50% of the gross receipts for all merchandise sold by the insured.  
If the sale of fresh and cured meats, fish or poultry exceeds 50% of the gross receipts for all merchandise sold, such operations shall be assigned to Code 8031.  
Refer to “Supermarket – retail” Section III of the Digest of Rulings and Interpretations. |
| VIDEO Cassette, Record or Compact Disc STORE—Retail | 8072 | Not applicable to store locations where more than 50% of the gross receipts is in the service of food or the sale of musical instruments, computers or other hardware, or household or electronic equipment. |
| WHOLESALE STORE NOC | 8018 | |
| STORM DOOR, STORM SASH, SCREENS or Weather Stripping INSTALLATION | 5428 | |
| STOVE MFG. | 3169 | |
| STREET CLEANING & Drivers | 9402 | |
8032........ Shoe Store—wholesale (continued)

3. Miscellaneous sewing accessories, such as buttons, buckles, slides, tapes, buckram, yarn, thread, thimbles, needles, pins, hooks and eyes, dress shields, hat bodies, artificial flowers and zippers.

Other types of wholesale operations assigned to this classification are:

1. Dealers in men's and women's belts.
2. Dealers in watch straps, including attaching buckles by hand to such straps.
3. Dealers in hair nets.
4. Stores **principally** engaged in the wholesale or retail mail order sales of clothing, wearing apparel or dry goods.

Operations Not Covered

1. Dealers in ladies' handbags. Assign Code 8018 "Wholesale Store NOC."
2. Dealers in second-hand clothing which is sorted, graded and baled for shipment. Assign Code 8018 "Wholesale Store NOC."

8033........ Supermarket—retail

★ **Applicable to a combined retail meat, grocery and provision “supermarket” type store provided that the sale of fresh and cured meats, fish or poultry does not exceed 50% of the gross receipts for all merchandise sold by the insured.**

If the sale of fresh and cured meats, fish or poultry exceeds 50% of the gross receipts for all merchandise sold, such operations shall be assigned to Code 8031 "Meat, Fish or Poultry Store—Retail."

Operations Covered

★ This classification applies to a combined retail meat, grocery and provision “supermarket” type store engaged in the retail selling of groceries, fresh fruits, vegetables, dairy products, bakery products, frozen foods and sells fresh and cured meats, fish or poultry. The butcher will make the appropriate meat cuts which will be wrapped and displayed for purchase.

★ These stores also sell other merchandise such as soda, beer, soap and other household cleaning items, paper products, cigarettes, drug store items, kitchen utensils, small hardware, potted plants and flowers.

In addition, these stores may also sell delicatessen foods such as cold cuts, salads, pickles and smoked fish. May also prepare salads and cook meats such as roast beef, Virginia ham, barbeque chickens and spareribs.

This classification can be assigned only when the employer's sales of fresh and cured meats, fish or poultry do not exceed 50% of the gross receipts for all merchandise sold by the insured.

Operations Not Covered

1. Retail stores of the type described above, where the sale of fresh and cured meats, fish or poultry exceeds 50% of the gross receipts for all merchandise sold. Assign Code 8031 "Meat, Fish or Poultry Store—retail."
8033 ........ Supermarket—retail (continued)

2. Retail stores selling groceries, fresh fruit, vegetables, dairy products, bakery products and frozen foods. Assign Code 8006 "Grocery Store—retail" if they do not sell fresh and cured or smoked meats, fish or poultry.

3. When a combined meat, grocery and provision store has separate employees exclusively engaged in making sausage, frankfurters or bologna, such operations are assigned to Code 2095 "Meat Products Mfg. NOC."

★ 4. Bakeries operated by supermarkets that are engaged in making fresh baked goods from scratch are assigned to Code 2003 “Bakery & Route Salespersons, Route Supervisors, Drivers.”

★ 5. Fast food restaurants including but not limited to, pizza parlors, sandwich shops, donut shops, concession stands, hamburger, taco and fried chicken establishments are assigned to Code 9072 “Restaurant–Fast Food & Drivers.”

★ 6. Restaurant establishments that provide traditional service where patrons are served by a wait staff or the operation of a catering establishment are assigned to Code 9071 “Restaurant–including entertainers and/or musicians.”

Operations Covered

This classification applies to dealers principally engaged in the wholesale selling of groceries, frozen foods or dairy products which are received and sold in cartons, cases and boxes.

These dealers may also sell, at wholesale, a minor amount of fresh fruit, vegetables or other merchandise such as beer, soda, household cleaning supplies or paper products.

8034 ........ Grocery Store—wholesale

8034 ........ Coffee, Tea or Spice Store—wholesale

8034 ........ Dairy Products Store—wholesale

8034 ........ Frozen or Frosted Food Store—wholesale

Operations Not Covered

1. Wholesale dealers principally engaged in selling fresh fruits or vegetables. Assign Code 8048 "Fruit or Vegetable Store—wholesale."

2. Wholesale dealers principally engaged in selling soda, household cleaning supplies or paper products. Assign Code 8018 "Wholesale Store NOC."

3. Wholesale dealers principally engaged in selling beer in bottles, cans, kegs or barrels. Assign Code 7390 "Beer or Ale Dealers—wholesale—& Drivers."


5. Wholesale dealers principally engaged in selling milk. Assign Code 2070 "Milk Depot or Milk Dealer & Route Salespersons, Route Supervisors, Drivers."