

The Ohio Bureau of Workers' Compensation  
**SCHEDULE OF AUDIT FINDINGS**

WASHINGTON TOWNSHIP LUCAS COUNTY  
 Policy # [REDACTED]

AUDIT PERIOD	MANUAL	PAYROLL		FINDINGS
		REPORTED	FOUND	DR/(CR)
1/1/2021	9433	753,228	784,447	31,219
1/1/2022	9439	67,296	39,359	(27,937)
	9444	0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
Totals		820,524	823,806	3,282
1/1/2020	9433	0	0	0
1/1/2021	9439	0	0	0
	9444	0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
Totals		0	0	0
1/1/2019	9433	0	0	0
1/1/2020	9439	0	0	0
	9444	0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
Totals		0	0	0
1/1/2018	9433	0	0	0
1/1/2019	9439	0	0	0
	9444	0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
Totals		0	0	0
Grand Total Payroll		820,524	823,806	3,282

AUDIT PERIOD	MANUAL	PAYROLL		FINDINGS
		REPORTED	FOUND	DR/(CR)
1/1/2022	9433	0	0	0
1/1/2023	9439	0	0	0
	9444	0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
		0	0	0
Totals		0	0	0

Audit findings are subject to final approval.

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Information for this audit was provided by:  
**Michele Nowakowski**

I reviewed the above findings with the BWC auditor:  
**BENJAMIN L. CROLEY**  
**Premium Audit Department**  
**419-343-7888**  
**BENJAMIN.CROLEY@BWC.STATE.OH.US**

Note: Signing this form does not constitute agreement or disagreement with audit findings.

Signature: *Michele Nowakowski*

Print Name: MICHELE NOWAKOWSKI

Title: FISCAL OFFICER

Date: 11-04-2022



**Bureau of Workers' Compensation**

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Governor **Mike DeWine**  
Administrator/CEO **Stephanie McCloud**

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**The Ohio Bureau of Workers' Compensation  
FUTURE REPORTING INSTRUCTIONS**

**Policy #:** ██████████  
**Name:** WASHINGTON TOWNSHIP LUCAS COUNTY  
**DBA:**  
**Audit Date:** 11/4/2022  
**Audit Period:** 01/01/2021 to 01/01/2022  
**Auditor:** BENJAMIN L. CROLEY  
**Phone/Fax:** 419-343-7888 614-621-2001  
**Address:** ONE GOVERNMENT CENTER, TOLEDO, OH 43604  
**E-mail:** BENJAMIN.CROLEY@BWC.STATE.OH.US

**The following instructions address the finding(s) identified in your audit and provides instructions for future reporting. Please keep a copy for your records. If you should have any questions or concerns about any aspect of this audit, please feel free to contact me. Thank you for your cooperation in completing this audit.**

The audit was completed and it was found that there are a few items that must be addressed moving forward. **First is that the reportable payroll is the gross wages less any section 125 deductions & Pre-Tax only 457 B Deductions.** The use of spot or casual labor (1099's) is reportable if they are not truly independent contractors. As discussed the scheduled fire department staff are coded to 9433, as detailed below 9439 is strictly for the Police Auxiliary and Fire Department that is not scheduled and responding to tones. The rest of the information is for your review and further knowledge building.

**REPORTABLE REMUNERATION:**

- Reportable payroll wages are gross payroll less employees' portion of pre-tax Section 125 less employees' portion of pre-tax contributions to a tradition governmental 457 plan. Note that after-tax contributions to a Roth 457 are reportable.
- 403B Plans;
- 414(h) Plans;
- Pretax Health Savings Accounts (HSA) which allows the employee to retain the funds paid into it;
- Employee contributions to public employer retirement plans (PERS & Police/Fire);
- Employer pick up (paying) the employees contribution of PERS & Police/Fire retirement plans as a salary reduction thereby reducing the employee's salary.

NOTE: Premiums for life insurance over \$50k are not reportable.

**WHO IS REPORTABLE:**

- Individual hired by a public employer who receive W-2s or participate in PERS, Police/Fire or similar plans;
- Elected officials and board members;
- Village magistrate is reportable when holding court for the village;
- Zoning inspectors, commissioners and board of appeal members;
- Emergency volunteers;
- Non-emergency volunteers, including probationer performing community service in lieu of going to jail or paying a fine if the entity has executed a Contract for Coverage of Political Subdivisions (U69);
- Election poll workers;
- Judges, including temporary or foreign judges;
- Paid recreation department workers, including coaches and bus drivers.

#### EMERGENCY SERVICE VOLUNTEERS:

Individuals serving as public emergency volunteers with an EMS, fire or police department are employees for workers' compensation purposes. Their reportable remuneration is \$300 or actual amount if paid more per person per year with an annual minimum reportable payroll for all volunteers of \$4500. A roster of volunteers must be maintained.

#### CRITERIA USED TO DETERMINE EMERGENCY SERVICE VOLUNTEERS:

Only non-scheduled individuals are reportable to volunteer emergency classification 9439 because they are not at an assigned post/station/vehicle for the purpose of responding to an emergency. Exception: if an individual is scheduled at an assigned post/station/vehicle and not being paid, they are a volunteer for reporting purposes.

#### SPECIAL DUTY ASSIGNMENT:

A work assignment performed by off-duty emergency personnel, including police officers, firefighters, or paramedics/EMTs for services such as security, traffic control or other services at a community event that is arranged by a site employer (school, community organization, charity) through the municipality that employs the emergency personnel. The assignment may also be arranged through an association obligated to coordinate the services on behalf of the municipality such as a police officers' association:

- For an individual working a special duty assignment as defined above, the municipality for which the individual is employed is considered the employer of record for any injuries occurring during the special duty assignment.
- The municipality nor the site employer are required to report special duty assignment wages paid by the site employer as payroll to BWC.

#### SECTION 125 CAFETERIA PLANS: (Deductions are NOT reportable)

An IRS Code Section 125 Plan is a qualifying pre-tax employee benefit for health insurances, Flexible Spending Accounts and Dependent Care Savings Accounts. These are also known as Cafeteria Plans, but do not require numerous option plans to qualify. These benefits do not include 401K or 403B plans Also Pretax Health Savings Accounts (HSA) which allow the employee to retain the funds paid into it are not deductible. The pre-tax contributions made by Ohio employees who have them deducted from their wages are not reportable to BWC.

#### RETIREMENT PLANS:

- In lieu of Social Security, public employers and public employer employees contribute to such funds as, but not limited to, Public Employees Retirement System (PERS), State Teachers Retirement (STRS) and the Police and Firemen's Disability and Pension Fund. The full normal employee contribution to the plan is reportable;
- Elective deferrals under a Section 457 governmental subdivision deferred compensation plan are not reportable as payroll for premium calculation purposes. This includes the Ohio Deferred Compensation plan and/or any other third party 457 plans. This is for pretax deduction plans only;
- 403B Plans are reportable;
- 414(h) Plans are reportable;
- Some public employers will pay the employee contribution as a salary reduction. This has the effect of reducing the employee's amount of payroll for income tax withholding purposes and is reportable for premium calculation purposes.

#### INDEPENDANT CONTRACTOR:

Issuance of a 1099 or possession of a BWC certificate does not necessarily lead to the conclusion that BWC will consider the worker an independent contractor. BWC looks at a number of factors to determine if someone is an independent contractor or employee. If the hiring party reserves the right to control the manner or means of doing the work, it most likely will be found to be an employment relationship. If the manner or means are left to the worker who is responsible to the hiring party for results only, an independent contractor relationship most likely exists. Another question to be asked is whether the work activity being performed is usually performed by an independent contractor or employee in that industry. If the work activity is usually performed by an independent contractor and other facts support the position that the worker is running a business, it is likely that the worker is an independent contractor.

Use of independent contractors is common in the construction industry. Independent contractors usually receive a 1099 instead of a W-2. Hiring parties do not pay payroll taxes on these workers. Questions frequently arise that require a determination of the legal status of a particular worker as an employee or an independent contractor. Where a construction contract is at issue, the "right to control" test is not used as the basis for a determination. BWC is required to apply the 20 specific factors in R.C 4123.01(A)(1)(c). If at least 10 of those factors apply, the individual is an employee.

#### SUBCONTRACTORS:

A general contractor may be liable for claims filed by employees of subcontractors when the subcontractor fails to provide workers' compensation coverage for its employees. It is a common practice to utilize written contracts. It is also a common practice for the general contractors obtain a copy of and maintain subcontractors' workers' compensation certificates of coverage, liability insurance and invoices, and/or bids for the services provided. A sub-subcontractor must have a valid contract to perform a portion of the work and not merely be providing laborers. Ohio employers have a duty to properly report required information to the Bureau of Workers' Compensation for proper calculation of premiums. Employers who fail to secure, maintain, or properly report required information for workers' compensation coverage may be subject to criminal prosecution.

#### PAYMENT TO SPOT LABOR:

We consider individuals who perform work within a business' normal operation as spot labor. For example, a plumber needs short-term help with a job. He finds someone to help and pays the helper cash. The person works within the business' normal operation. Remuneration/payments to these individuals are reportable to the appropriate classification code based on the work.

NCCI CLASS CODE 9444 - Public Employee Clerical and Clerical Telecommuter Employees:  
Prior to January 1, 2023, classification 9444 applied to Ohio public employers for staff that had been ordered to perform clerical work from home because of the COVID-19 pandemic and the state of emergency.

Starting January 1, 2023, you can report payroll associated with your clerical employees under a single class code, regardless of whether they work from home or in the office when they meet the definition of clerical or clerical telecommuter under the Ohio Administrative Code (OAC) 4123-17-08. The code is 9444 — Public Employer Clerical and Clerical Telecommuter. It replaces code 9444 — Public Employer Taxing Districts – Clerical Telecommuter, which applied only to clerical employees working from home.

Classification 9444 applies when the definition of clerical office duties & the definition of a clerical office are met. Clerical office duties are defined per rule 4123-17-08; Section B-2-a: The creation or maintenance of financial or other employer records, correspondence, computer composition, technical drafting, telephone duties & phone sales. A clerical office is defined as a work area separated & distinguishable from all other work areas & hazards by floors, walls, partitions, counters, or other physical barriers. A clerical office excludes work or service areas, areas where inventory is located, products are displayed for sale, or where the purchaser brings the product for payment. If duties include going to the bank, post office, or picking up office supplies & these duties are incidental to their clerical duties, this person still qualifies for the classification. Direct supervision of non-clerical employees or exposure to operative hazards, disqualifies an employee from being reportable to classification 9444. Segregation of an employee's payroll between classification 9444 & another classification is not permissible.

#### CLAIMS AND PREMIUM AUDIT:

To develop accurate base rates, claims must be charged to the classification where the injured worker's payroll was reported and premium paid. For the audit period, the auditor has verified the wages, occupation and job/ injury description for the claims charged to your policy. Going forward, it is important that when a claim is filed you verify that the injured worker is your employee and that the classification assigned to the claim is correct. Questions should be directed to the claims specialist assigned to the claim.

The following represents BWC reporting changes as a result of the COVID-19 pandemic:

- Employers are not required to report to BWC the wages paid to employees who are idle at home because of the COVID-19 pandemic. However, "idle at home" does not apply to employees who work intermittently, part-time or on a reduced schedule in the business location. In this case, 100% of this employee wages are reportable to BWC. We encourage employers to keep track of payment types for purposes that might surface during a premium audit.
- Effective 4/1/20 through 9/30/21, wages paid by employers under the Families First Coronavirus Response Act, Consolidated Appropriations Act and American Rescue Plan Act for sick leave related to COVID-19 and leave time to care for a child whose school or childcare provider is closed or unavailable for COVID-19-related reasons are not reportable to BWC. Employers must follow the guidelines established by the federal government to exclude these wages from their reportable payroll and maintain appropriate records.

**RIGHT TO AUDIT:**

**4123-17-17 Auditing and adjustment of payroll reports:**

(A) Every employer amenable to the workers' compensation law shall keep, preserve and maintain complete records showing in detail all expenditures for payroll reportable to Ohio and the division of such expenditures in the various divisions and classifications of the employer's business. If an employer elects under section 4123.292 of the Revised Code to obtain other-states' coverage, the employer shall also keep records of all payroll reported to the other-states' insurer for work performed outside of Ohio. Both types of payroll records shall be preserved for at least five years after the respective time of the transaction upon which such records are based.

(B) All books, records, papers, and documents reflecting upon the amount and the classifications of the payroll expenditures of an employer shall be kept available for inspection at any time by the bureau of workers' compensation or any of its assistants, agents, representatives or employees. If any private fund, county, or public employer taxing district employer fails to keep, preserve and maintain such records and other information reflecting upon payroll expenditures, or fails to make such records and information available for inspection, or fails to furnish the bureau or any of its assistants, agents, representatives or employees, full and complete information in reference to expenditures for payroll when such information is requested, the bureau may determine upon such information as is available to it the amount of premium due from the employer and its findings shall constitute prima facie evidence of the amount of premium due from the employer.

As a result of this premium audit, your Estimated Annual Premium (EAP) will be adjusted. To view the updated installment payments, please log in to [www.bwc.ohio.gov](http://www.bwc.ohio.gov) and click on For Employers, then View My Policy, then Premium Installment Schedule. Remember, failure to pay installments timely could result in penalties and interest charged to your account. You are also responsible for the cost of any claims that occur during a period of non-coverage.

Audit appeals are subject to 4123.37 and 4123.291 of the Ohio Revised Code and 4123-14-06 of the Ohio Administrative Code within the time frame provided by this rule.

The audit findings & instructions are based on information supplied by: Michele Nowakowski and I confirm that I have provided the auditor with an accurate and complete description of the employer's operation(s).

I, the undersigned, acknowledge receipt of this letter and understand its content and purpose.

Signature: Michele Nowakowski Date: 11-04-2022  
Print Name: MICHELE NOWAKOWSKI Title: FISCAL OFFICER