

Publications

Labor and Employment Alert: Many Ohio Employers Eligible to Apply for Workers' Compensation Refunds

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Perhaps as many as 200,000 Ohio employers are eligible to participate in a \$420 million refund program but they **must apply for a refund by September 22, 2014**. Eligible employers have paid premium to the Bureau of Workers' Compensation between 2001-2008, not been "group rated" during all of that time and paid their premium based on certain "manual classifications."

On July 25, 2014, Judge Richard McMonagle of the Common Pleas Court of Cuyahoga County approved a settlement reached by the Ohio BWC and the plaintiffs in class action litigation that came to be known as the San Allen case. The case was instituted in December 2007 by a group of employers purporting to represent a large class of State Fund contributing employers. Their essential complaint was that the BWC's group rating program had resulted in excessive premium discounts to group rated employers at the expense of non-group rated employers. The employers alleged that group rating, as it was implemented during those years, was both inconsistent with the Administrator's statutory authority and in violation of the Ohio Constitution. *[The group rating program has since been modified and the premium savings substantially reduced.]* In March, 2013, Judge McMonagle ruled in favor of the plaintiffs, awarding more than \$850 million in damages for excessive workers' compensation premiums. The trial court's award was appealed by the BWC and the court of appeals affirmed the trial court's decision but reduced the damage award to around \$650 million. The appellate court noted that the group rating program effectively had nongroup-rated employers subsidize "excessive, undeserved premium discounts to group rated employers". At the time of the settlement, the case was pending on discretionary appeal to the Ohio Supreme Court.

A settlement administrator and a special master will be appointed to manage and oversee the payments from the settlement fund. Within 14 days of the approval of the settlement, a "Court Ordered Notice of Class Action and Proposed Settlement" will be sent to employers by the settlement administrator along with a Sworn Proof of Claim. This Notice will set out the background of the case, explain the settlement and describe an employer's options.

If an employer wishes to object to the settlement, it must do so on or before September 22, 2014. Otherwise, applications for reimbursement from the settlement fund must be sent to the settlement administrator and postmarked no later than September 22, 2014.

If you have questions about this settlement or how it might affect your business, please contact your Vorys attorney.