

 Yukon Workers' Compensation Health and Safety Board	Part:	Employer Assessments		
	Board Approval:	<i>Original signed by chair</i>	Effective Date:	Jan. 1, 2010
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	Board Order:		Review Date:	

PAYMENT OF ASSESSMENTS

GENERAL INFORMATION

The payment of assessments is a critical component of the workers' compensation system. This is recognized under the *Workers' Compensation Act* S.Y. 2008 (the "Act"), which provides the Yukon Workers' Compensation Health and Safety Board (YWCHSB) with several means of ensuring that assessments are paid.

PURPOSE

This policy clarifies the process the YWCHSB will use, when necessary, to ensure employers provide the YWCHSB with timely and accurate payroll information and pay their assessments as required under the *Act*.

DEFINITIONS

1. **Assessment:** the amount employers are required to pay to the YWCHSB in return for injury coverage for their workers and protection from civil action resulting from work-related injuries. Assessments are based on the industry(s) in which the employer operates, as well as one of the following:
 - a) the payroll of the employer;
 - b) the amount of optional coverage purchased; or
 - c) the amount of value of service purchased.
2. **Clearance Letter:** a letter from the YWCHSB which confirms that an employer is in good standing with the YWCHSB assessments branch and has compensation coverage for its workers.
3. **Due date:** payable on the date requested. If payment is not received on the due date, interest and/or penalties may apply.
4. **Earnings:** includes salary, wages, commissions, tips, remuneration for overtime, piece work and contract work, bonuses and allowances, the cash equivalent of board and lodging, store certificates, credits, directors fees, indemnities and

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allowances paid to members of the Legislative Assembly, and any substitute for money but does not include any amount received for expenses incurred by the worker because of the worker's employment.

5. **Employer Payroll Return (EPR):** the annual mechanism by which employers report their industry, their actual payroll for the prior year, an estimate of their payroll for the current year, their list of sub-contractors and amounts payable to them and any other information requested by the YWCHSB under subsection 78(1) of the *Act*.
6. **Industry Classification:** the class of industry to which an employer belongs (e.g. mining, oil and gas, construction, etc.).
7. **Maximum Wage Rate:** under section 3 of the *Act*, the maximum wage per worker on which employer assessments are calculated and upon which earnings loss benefits for injured workers are calculated.
8. **Provisional Assessment:** an interim assessment levied on an employer's account when an employer does not provide the YWCHSB with its employer payroll return or when an employer has not registered with the YWCHSB.

POLICY STATEMENT

The YWCHSB has a legislated mandate to provide a no-fault insurance compensation system for employers and compensation benefits to injured workers. The rate at which employers are assessed is determined by their industry classification and based on their payroll up to the maximum wage rate per worker. Assessments levied on employers are calculated from information provided on either the employer's EPR or the employer's Application for Registration form.

1. Payroll reporting

a) Annual Reporting

Section 78 of the *Act* requires every employer, on or before the last day of February each year, to complete an EPR which requests the following information:

- i) the actual amount of all earnings paid to its workers for the calendar year just passed;
- ii) a listing of all sub-contractors and the amounts paid to them for labour for the calendar year just passed;
- iii) the nature of its industry
- iv) an estimate of earnings that they expect to pay workers for the current year; and

v) any additional information the YWCHSB may require.

b) Updating Payroll Estimates

Employers may update their payroll estimate for the current year without penalty up to September 30th of the current year.

Employers who wish to increase/decrease their payroll estimate can contact an assessment officer who will review the request.

After September 30th, employers may update their payroll information with valid business reason (e.g. unexpected contract, increase or decrease in work, etc.) and with either full payment or other payment arrangements acceptable to the YWCHSB, at the time of the update, without penalty.

After September 30th, employers may update their payroll without valid business reason; however, full payment is due at the time of the update or the update will not be accepted and the employer will incur a penalty under paragraph 4(a) Underestimating Payroll.

2. Payment of assessments

Assessments payable for the current year are due March 30 and are based on the information provided on the employer's EPR and are paid in a lump sum or by instalment, at pre-determined or scheduled due dates approved by the YWCHSB.

Any assessments outstanding from the prior year are due and payable on or before the last day of February of the current year or interest is charged at a rate determined by Order of the Board of Directors.

For current year assessments, there are two methods of payment:

a) Payment on Estimated Payroll (POEP)

Under this method, employers pay assessments based on their estimate of expected payroll for the current year.

Payments may be made by instalments, at the employer's request, if the assessments due are greater than \$250 (two hundred and fifty dollars) and the YWCHSB approves the instalment plan. Instalment schedules may subsequently be modified to accommodate an employer's cash flow or business cycle (e.g. seasonal operators, placer miners, etc.). An instalment plan will not be extended beyond December 31st of the current year to ensure employers stay current with assessments owing. In unique situations where payment schedules extend past December 31st of the current year, all

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clearance letter requests will be reviewed by the Director of Assessments to ensure all payment requirements are met.

If payments are not received by their pre-approved due dates, the YWCHSB will charge a penalty and subsequent monthly interest and may also require immediate full payment of assessments. If an employer repeatedly fails to provide payments by their due dates, the YWCHSB may also require a security deposit. See paragraph 4(d) Late Payments on Instalments – Based on Estimated or Actual Payroll and YWCHSB policy, “Security Deposits”.

b) Payment on Actual Payroll (POAP)

In certain circumstances, instead of paying assessments on their estimates of payroll for the current year, qualifying employers can report and pay assessments in monthly instalments on their actual monthly payroll. In order to qualify for POAP, the employer must have:

- i) an annual payroll greater than five hundred thousand dollars (\$500,000.00); and
- ii) two years of operation in Yukon or be in good standing with another Canadian workers’ compensation board or commission.

Employers who are accepted for the POAP must:

- i) complete a monthly remittance report and submit it to the YWCHSB by the 15th day of the following month;
- ii) be in good standing with the YWCHSB assessments branch at all times; and
- iii) complete and submit the annual EPR, on time, in addition to making monthly reports.

Failure to meet these requirements may result in removal from the POAP.

If payments are not received by their pre-approved due dates, the YWCHSB will charge a penalty and subsequent monthly interest and may also require immediate full payment of annual assessments. See paragraph 4(d) Late Payments on Instalments – Based on Estimated or Actual Payroll.

3. Provisional assessments

If an employer does not provide its EPR statement within the time required a Late Filing Penalty will be levied (see 4 b)) and the YWCHSB may assign a provisional assessment. This provisional assessment is based on the YWCHSB’s estimation of the probable amount of the employer’s payroll for the current year.

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When the employer subsequently submits its EPR, if the provisional assessment has been paid by the employer and is less than required, the employer is liable to pay the difference and the YWCHSB may charge interest on the difference in an amount determined by Order of the Board of Directors. This is in addition to any penalties that may be levied for late or non-payment of assessments.

Provisional assessments are due and payable by April 30th. There are no payment arrangements available for provisional assessments.

However, there may be other times during the year when the YWCHSB will find it necessary to charge a provisional assessment. In those cases, the YWCHSB will determine the appropriate due date for payment.

4. Penalties and Interest Charges

The *Act* authorizes the YWCHSB to charge penalties, interest and claims costs against employers who fail to provide payroll information and/or pay their assessments on time. The YWCHSB collects these penalties and other charges as assessments.

The main purpose of penalties is to help ensure that employers comply with remittance requirements. Non-compliance involves a cost to the Compensation Fund which, in fairness to the employers who meet their obligations, should be borne by the delinquent employers.

a) Underestimating Payroll

When an employer has filed its EPR and its actual payroll is more than 125% of its estimated payroll, that employer is subject to a penalty.

The penalty will be at a rate set by Order of the Board of Directors, calculated on the assessments due on the amount of payroll above 125% of the estimate. It will also include an annual interest charge on outstanding assessments over 125% from the date when they were due (April 1 of the prior year), at a rate set by Order of the Board of Directors.

b) Late Filing of EPR

Employers who fail to provide their annual EPR on or before the last day of February are charged a penalty (a minimum of \$50 and a maximum of \$5000), based on last year's assessments, as determined by Order of the Board of Directors.

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c) Late Registration

Section 80 of the *Act* requires employers who commence or recommence a business in Yukon to register with the YWCHSB and provide a payroll estimate. Employers who fail to notify the YWCHSB within ten (10) days of employing workers in an industry are charged a late registration penalty in addition to assessments owed. The penalty is determined by Order of the Board of Directors, with a minimum of fifty dollars (\$50) and a maximum of five thousand dollars (\$5000).

In addition to the penalty, interest will also be charged retroactively, at a rate set by Order of the Board of Directors, based on the assessments due. In addition, if a worker of an employer who has neglected to pay assessments owing or provide a payroll return to the YWCHSB, is injured, the worker is covered. However, the employer may be directly charged up to the full cost of the claim in addition to any other assessments levied.

If an employer directs a worker to work in an industry to which the employer is not registered and that worker suffers a work-related injury, the worker is covered. However, the employer may be directly charged an additional assessment up to the full cost of the worker's claim.

d) Late Payments on Instalments – Based on Estimated or Actual Payroll

An employer who fails to make an instalment payment on or before the due date is charged a penalty, as determined by Order of the Board of Directors, on the day immediately following the due date. If the instalment payment is not made within 30 days of the due date, the employer will be charged interest at a rate set by Order of the Board of Directors and will continue to be charged interest each month until the payment is received.

If the employer fails to make another instalment payment in the same assessment year on or before its due date, the employer will be charged a penalty, as determined by Order of the Board of Directors, on the day immediately following the due date. In addition, the employer may be removed from the instalment plan. The removal of an employer will be determined by the Director of Assessments or President/CEO. If removed from the instalment plan, the employer's full assessment is due immediately and interest will be charged monthly on outstanding amounts.

e) Cheques with Non-sufficient Funds

When a cheque is returned due to non-sufficient funds, the YWCHSB will apply an administration charge. This is in addition to penalties for late or non-payment of assessments.

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f) **Credit Card Rejected**

When a credit card is rejected the YWCHSB may apply an administration charge. This is in addition to penalties for late or non-payment of assessments.

g) **In Addition to Assessments Owed**

All penalties and interest charges imposed by the YWCHSB are in addition to any security or assessment payment owed by an employer to the YWCHSB.

5. Reversal of penalties and interest

Penalties and interest will be charged in accordance with this policy and will only be reversed in cases of YWCHSB error or where unique and justifiable circumstances exist as determined by the Director of Assessments in cases where the penalty and/or interest is within the signing authority of this position or otherwise by the President/CEO.

ROLES AND RESPONSIBILITIES

Employers are responsible for registering with the YWCHSB and filing their EPRs on time. They are also responsible for paying their assessments, in the correct amounts, on or before the due dates.

The YWCHSB is responsible for collecting assessments and levying penalties on non-compliant employers when appropriate.

APPLICATION

This policy applies to employers subject to assessment under parts 11 and 12 of the Act as well as to the Board of Directors, the President/CEO and the staff of the YWCHSB.

EXCEPTIONAL CIRCUMSTANCES

In situations where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in unfair or unintended result, the YWCHSB will decide the case in accordance with YWCHSB policy, "Merits and Justice of the Case." Such a decision will be considered for that specific case only and will not be precedent setting.

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APPEALS

Decisions made by the YWCHSB under this policy can be appealed directly in writing to the Board of Directors of the YWCHSB in accordance with subsection 85(1) of the *Act*. Notice of the appeal must be filed within 180 days of the date of the decision by the YWCHSB, in accordance with subsection 85(2).

ACT REFERENCES

Sections 3, 66-69, 75-76, 78-82, 85, 88-89

POLICY REFERENCE

EN-02, "Merits and Justice of the Case"

EA-12, "Security Deposits"

HISTORY

EA-01, "Payment of Assessments," effective January 1, 2009 revoked December 31, 2009.

EA-01, "Payment of Assessments," effective July 1, 2008, amended January 1, 2009.

AS-20, "Payment of Assessments," effective May 9, 2005, revoked July 1, 2008.

AS-20, "Assessment Penalties," effective January 2, 1993, amended May 9, 2005.

AS-21, "Security for Payment of Assessments," effective November 10, 1993, revoked May 9, 2005.

AS-22, "Enforcement of Assessment Payments," effective November 10, 1993, revoked May 9, 2005.

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