 Yukon Workers' Compensation Health and Safety Board	Part:	Employer Assessments		
	Board Approval:		Effective Date:	January 1, 2009
	Number:	EA-01	Last Revised:	
	Board Order:	2008	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 means the YWCHSB will use, when necessary, to ensure that employers provide the YWCHSB with timely and accurate payroll information and pay their assessments as required under the *Act*.

DEFINITIONS

1. **Assessments:** the amount employers pay to the YWCHSB in return for injury coverage for their workers under the *Act* and protection from civil action resulting from compensable injuries. Assessments are based on the industry(s) in which the employer operates and the payroll of the employer.
2. **Provisional Assessment:** an interim assessment levied on an employer's account when an employer does not provide the YWCHSB with their Employer Payroll Return.
3. **Employer Payroll Return:** 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 any other information requested by the YWCHSB under subsection 78(1) of the *Act*.

POLICY STATEMENT

1. Payment of Assessment

- a) Immediate Payment and Security Deposits of Required Assessments

The YWCHSB requires that an employer pay its assessment at the beginning of the year in which the assessment is required.

Payment of Assessments

Immediate payment of an assessment may be required from an employer that:

- (i) is in its first year of Yukon operation;
- (ii) has a poor credit rating;
- (iii) cannot provide the YWCHSB with a letter of good standing from its home jurisdiction; or
- (iv) has a non-compliant payment record at any time during the past two (2) years.

b) Provisional Assessments

If an employer does not provide the YWCHSB with their Employer Payroll Return statement by the last day of February, the YWCHSB will assign a provisional assessment. This provisional assessment is based on the YWCHSB's estimation of the probable amount of the employer's payroll.

2. Security Deposits

A security deposit may be required from an employer that:

- a) has not paid its assessment premiums upon registration;
- b) is in its first year of Yukon operation;
- c) has no assets which could be attached for the payment of assessments; or
- d) indicates an inability or unwillingness to pay his or her required assessments.

A security deposit shall be in the form of:

- a) a promissory note guaranteed by a bank in Canada and payable to the YWCHSB;
- b) a certified cheque drawn on a bank in Canada and payable to the YWCHSB;
- c) a security bond acceptable to the YWCHSB;
- d) an irrevocable letter of credit from a bank in Canada; or
- e) cash.

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A security deposit is due within fifteen days (15) after being served with a notice.

In determining whether a security deposit will be levied, the following factors will be considered:

- a) the employer's actual payroll for the previous year;
- b) the duration of the employer's operation;
- c) the number of workers employed;
- d) whether the employer's registered main operation is located outside Yukon;
- e) for a new employer to Yukon, whether it provides a letter of good standing from the originating provincial/territorial workers' compensation board; and
- f) the employer's estimated payroll for the current year.

The amount of the security deposit shall be determined by the Director of Assessments.

A security deposit is held by the YWCHSB until the YWCHSB is satisfied that the employer is able to meet their obligations.

3. Refund of Security Deposits

A security deposit shall not be refunded to an employer until a payroll audit has been completed and all required assessments are paid.

4. Penalties and Interest Charges

Interest Charge for Underestimating Payroll

Employers who have underestimated their payroll and who have not amended their estimated payroll by December 31 in the year of estimate will be subject to interest on any unpaid assessment. The interest due will be based on the entire assessment owing where the actual payroll is more than one hundred and fifty per cent (150%) of the estimated payroll.

The interest rate shall be determined by Order of the Board of Directors.

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Payment of Assessments

a) Non-Payment Penalties

If an employer does not pay its assessment or provide security when it is required to do so by the YWCHSB, the YWCHSB may take any or all of the following actions:

- (i) impose a penalty set by Order of the Board of Directors;
- (ii) order the employer to cease employing workers until the default is remedied to the YWCHSB's satisfaction;
- (iii) when a worker is injured and the employer has not paid its assessment or provisional assessment, require the employer to pay the entire cost of the claim.

b) Cheques with Non-sufficient Funds

When a cheque is returned due to non-sufficient funds, the YWCHSB may apply an administrative charge.

c) Credit Card Rejected

When a credit card is rejected the YWCHSB may apply an administrative charge.

d) General

The Director of Assessments may reverse a penalty in the amount of five thousand dollars (\$5000.00) and may be increased to the Director's financial signing authority as delegated by the President/CEO.

In determining whether a penalty is levied the following factors will be considered:

- (i) Is the penalty cost-effective?
- (ii) Was it a YWCHSB error?
- (iii) Are there reasonable and justifiable circumstances?

The President/CEO may reverse a penalty of more than five thousand dollars (\$5000.00)

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.

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5. Enforcement of Assessment and Security Payments

When an employer is in default with regard to a security or assessment payment and the efforts taken by the YWCHSB to contact the employer to discuss the default have failed to resolve the default, the YWCHSB may issue a:

a) Demand Letter

When an employer is in default with regard to a security or assessment payment, and has failed to pay the full amount due within thirty (30) days of the due date, a Demand Letter will be issued to the employer.

b) Legal Counsel Letter

If an employer who has been sent a Demand Letter does not respond to the Demand Letter within twenty-one (21) days, a letter signed by the YWCHSB's legal counsel will be sent to the employer by registered mail.

c) Certificate

If an employer owes the YWCHSB more than five hundred dollars (\$500.00) and fails to pay this amount within the time required by the Legal Counsel letter, the Director of Assessments may file the Certificate in the Supreme Court. The Certificate can be enforced as a judgment of the Supreme Court.

d) Writ of Seizure and Sale


Once a Certificate has been filed with the Supreme Court, the payment of the assessment may be enforced by a Writ of Seizure and Sale. The Writ of Seizure and Sale will be filed with the Supreme Court at the same time as the Certificate.

APPLICATION

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

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*.


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ACT REFERENCES

Sections 66-69, 75-76, 78-80, 82, 85 and 88-89

HISTORY

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.