



WORKERS' COMPENSATION BOARD OF BC

Policy and Research Division

Mailing Address

PO Box 5350 Stn Terminal
Vancouver BC V6B 5L5

Location

6951 Westminster Highway
Richmond BC

Telephone 604 276-5160
Fax 604 279-7599

April 2005

Update 2005 – 3

TO: HOLDERS OF THE *ASSESSMENT MANUAL*

This update to the *Assessment Manual* contains amendments to the *Manual* implemented since Update 2005 – 2.

The following two amendments become effective on **April 1, 2005**.

- AP1-38-2 Payroll – Categories
- AP1-88-1 Audits

Also included in this update is a housekeeping amendment:

- AP1-38-4 Payroll – Out-of-Province Employers and Operations

A summary of the amendment is attached and the amended pages are included as part of the package.

If you have any questions regarding subscription information for updates to the *Assessment Manual*, please call WCB Customer Service at the following:

Local phone: 604-232-9704
Toll-free: 1-866-319-9704

Local fax: 604-232-9703
Toll-free fax: 1-888-232-9714

Margaret Eckenfelder
Vice President
Policy and Research Division

Attachments

ASSESSMENT MANUAL

SUMMARY OF AMENDMENTS – Update 2005 – 3

AP1-38-2 Payroll – Categories	Pages 3 - 4	To clarify the payroll amendment limits of prime contractors, a change to section (d) of this Item.
AP1-38-4 Payroll – Out-of Province Employers and Operations	Pages 3 - 5	Housekeeping change to correct error in formula.
AP1-88-1 Audits	Pages 1 - 3	To clarify law and policy application in Workers' Compensation Board audits of employer records.

If an individual is an active shareholder, director, or officer of more than one registered firm, then the combined remuneration from those firms is assessable. The combined earnings are prorated between the various firms as is the excess earnings if the earnings are above the maximum.

(d) Contractors' earnings

The earnings of non-registered labour contractors must be included in the assessable payroll. For labour-only contracts, the employer is assessed on the gross value of each contract.

For contracts involving the supply of labour and equipment, an equipment allowance may be deducted from the gross contract value where the contract requires use of revenue-producing equipment. The amount of the allowance will be determined having regard to such factors as the cost of purchasing the equipment and its ongoing operating cost and should be 15%, 40% or 75%.

Reimbursements for materials supplied by the contractor may be deducted from the gross contract amount where supported by receipts.

An employer may be registered as being an independent firm in a situation where payments to the firm by a prime contractor were previously included in the prime contractor's payroll on the erroneous assumption that the employer was a labour contractor. The payments may be retroactively excluded from the prime contractor's payroll, but not beyond the effective date of the registration of the subcontracting firm.

PRACTICE

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WCB website.

With regard to part (c) of the POLICY in this Item, readers should see, in particular, Practice Directive "Shareholder Earnings – Assessment of Dividends" - AP1-38-2(A) - on the WCB website at http://www.worksafebc.com/law_and_policy/practice_directives/assessment_and_revenue_services

With regard to part (d) of the POLICY in this Item, a list of established equipment allowances will be available on the WCB website by January 1, 2003.

EFFECTIVE DATE:	April 1, 2005
AUTHORITY:	ss. 38(1) and 39(1), <i>Workers Compensation Act</i> .
CROSS REFERENCES:	See also Coverage under the <i>Act</i> – Distinguishing Between Employment Relationships and Relationships Between Independent Firms (AP1-1-3) with respect to principals of corporations, Coverage under <i>Act</i> – Workers (AP1-1-5), Coverage under <i>Act</i> – Labour Contractors (AP1-1-6), Personal Optional Protection (AP1-2-3), Extending the Application of the <i>Act</i> (AP1-3-1), Fishing (AP1-4-1), Payroll – Principles for Determining (AP1-38-3) and Maximum Wage Rate (AP1-38-6) in the <i>Assessment Manual</i> .
HISTORY:	<p>A clarification to the payroll amendment limitations in part (d) was made effective April 1, 2005.</p> <p>A housekeeping change was made to the “Practice” section of this policy, effective December 31, 2003.</p> <p>Consequential changes to this Item made as a result of the <i>Workers Compensation Amendment Act (No. 2), 2002</i> were effective on March 3, 2003.</p> <p>This Item resulted from an editorial consolidation of the former <i>Assessment Policy Manual</i>, which was effective on January 1, 2003. The Policy in this Item continued the substantive requirements that existed before the consolidation, with any wording changes necessary to reflect legislative and other changes that had occurred. Policies No. 40:10:10, 40:10:30, 40:10:40 and 50:50:00 in the former <i>Assessment Policy Manual</i> were replaced, in part, by this Item.</p>
APPLICATION:	The amended policy applies to all decisions on or after April 1, 2005.

worker's BC earnings are assessable in this province. The employer may also claim as a deduction a portion of that worker's excess earnings (if applicable) over the maximum wage, according to the relationship between BC earnings and total earnings. The excess earnings deduction is calculated as follows:

$$\frac{\text{BC Earnings}}{\text{Total Earnings}} \times \text{Total Earnings in excess of BC maximum wage rate} = \text{Claimable excess}$$

(b) Out-of-province employers operating in BC

If an employer from outside the province operates in BC and is required to register with this Board, the employer must pay an assessment to this Board that is based only on the earnings of workers while employed in BC.

If an employer from one of the other provinces participating in the Interjurisdictional Agreement is registered with this Board, the employer is permitted to prorate excess earnings over the maximum wage according to the formula set out in (a) above. However, if the employer is outside the scope of the agreement, the BC earnings are fully assessable up to the current maximum, with no proration of the excess.

(c) Jurisdictions where principals of corporations have voluntary coverage

In certain jurisdictions, active principals of a limited company are not covered and assessed as workers of the company, but instead must purchase optional coverage. If a principal works in BC and in a jurisdiction where this is the case, BC earnings are fully assessable in this province and excess earnings over the maximum wage may not be prorated, since this type of coverage is not listed in the Interjurisdictional Agreement as a proratable item.

Where the principal is a resident of BC, earnings while working in a jurisdiction with the optional type of principals' coverage are assessable for up to six months due to the provisions of section 8 of the *Act*.

Assessment liability is not affected by whether optional coverage in the other province has been obtained.

(d) Air carriers

When determining the assessable payroll for Canadian air carriers that have flight crews based in BC and in other provinces or territories, the Board considers their workers in two distinct groups: ground personnel and flight crews.

The rules for assessing ground personnel are identical to other out-of-province operations and employers discussed above.

The assessable payroll for flight crews is determined differently from ground crews. The BC payroll is extracted from the employer's total payroll for flight crews according to the ratio of miles flown in BC (plus a share of the foreign miles) to the total miles flown by employer's flight crews. This ratio is determined as follows:

$$\frac{\text{BC miles} + \text{Share of foreign miles}}{\text{Total miles}} \times 100 = \text{\% of Total flight crew payroll assessable in BC}$$

The BC miles figure includes all scheduled and charter miles flown in BC. The share of foreign miles is calculated as follows:

$$\frac{\text{No. of air crew residing in BC} \times \text{Total foreign miles}}{\text{Total number of air crew}} = \text{Share of foreign miles}$$

Miles flown in a Canadian jurisdiction in which the airline is not required to be registered for flying and is not registered are prorated on the same basis as the share of foreign miles.

Excess earnings may be deducted for flight crews. The deduction is calculated by taking the total earnings of all individuals who earned more than the BC maximum wage, subtracting the number of individuals multiplied by the maximum, and then multiplying the result by the percentage of total payroll ratio determined above.

The assessment of foreign air carriers is based on the gross payroll for any ground personnel residing in BC (less a deduction for excess earnings if applicable), plus the calculated assessable flight crew payroll. The assessable payroll for the non-resident flight crews is calculated according to the following formula:

$$\text{Assessable Payroll} = \frac{H1 \times M}{12 \times H2}$$

Where: H1 = actual block hours credited to flight crews for time worked over or in BC in hours.

M = current maximum assessable wage in BC.

H2 = the carrier's total flight crew block hours per month.

PRACTICE

A copy of the Interjurisdictional Agreement on Workers' Compensation may be obtained on request from any Employer Service Representative in the Assessment Department.

For more information on interjurisdictional trucking, readers should consult the WCB website at http://www.worksafebc.com/for_employers/registering_with_the_wcb/interjurisdictional_trucking/default.asp.

For any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WCB website.

EFFECTIVE DATE:	January 1, 2003
AUTHORITY:	ss. 8 and 8.1, <i>Workers Compensation Act</i> .
CROSS REFERENCES:	See also Coverage under <i>Act</i> – Distinguishing Between Employment Relationships and Relationships Between Independent Firms (AP1-1-3) with respect to principals of corporations, Exemptions from Coverage (AP1-2-1) with regard to exemptions for non-residents and Maximum Wage Rate (AP1-38-6) in the <i>Assessment Manual</i> and Interjurisdictional Agreements (policy item #113.30) of the <i>Rehabilitation Services & Claims Manual</i> , Volume II.
HISTORY:	Housekeeping change made to formula in section (a) April 1, 2005. Replaces Policies No. 40:20:20 and 40:20:40 of the <i>Assessment Policy Manual</i> .
APPLICATION:	This Item results from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

RE: Audits**ITEM: AP1-88-1**

BACKGROUND

1. Explanatory Notes

Section 88 of the *Act* gives the Board the authority to examine the books and accounts of every employer and make any other enquiry that is considered necessary to ascertain whether an employer is classified correctly and has made an accurate payroll report. Payroll examinations (audits) are a means of ensuring that employers are meeting their assessment obligations under the *Act*.

2. The Act

Section 88:

- (1) The Board may act on the report of any of its officers, and any inquiry which it is considered necessary to make may be made by an officer of the Board or some other person appointed to make the inquiry, and the Board may act on his or her report as to the result of the inquiry.
- (2) The officer and every other person appointed to make an inquiry has for the purposes of an inquiry under subsection (1), all the powers conferred on the Board by section 87.
- (3) The Board, an officer of the Board or a person authorized by it for that purpose, may examine the books and accounts of every employer and make any other inquiry the Board considers necessary to ascertain whether a statement furnished to the Board under section 38 is an accurate statement of the matters which are required to be stated in it, or to ascertain the amount of the payroll of an employer, or to ascertain whether an industry or person is within the scope of this Part. For the purpose of the examination or inquiry, the Board or person authorized to make the examination or inquiry may give to the employer or the employer's agent notice in writing requiring the employer to bring or produce before the Board or person, at a place and time to be mentioned in the notice, which time must be at least 10 days after the giving of the notice, all documents, writings, books, deeds and papers in the possession, custody or power of the employer touching or in any way relating to or concerning the subject matter of the examination or inquiry referred to in the notice, and every employer and every agent of the employer named in and served with the notice must produce at the time

and place required all documents, writings, books, deeds and papers according to the tenor of the notice.

POLICY

The frequency, scope and periods audited will vary from employer to employer and to some degree are dependent on the type of operation and categories of labour or contractors engaged by the employer.

The records subject to audit are not limited to payroll journals, but encompass all books, documents, records, papers or things which relate to assessable earnings.

The audit may take place at the place of business of the employer or its agent, or at a location designated by the Board. Where the audit is to take place at a location designated by the Board, the employer must be given 10 days written notice under section 88(3) of the *Act*.

The purpose of an audit is to verify compliance with legislation and policy requirements during a prior period. Therefore, legislation and policies in effect during the time period under review in the audit will be used to determine compliance, unless otherwise specified by a subsequent legislation or policy change.

If an audit results in a change in the firm's assessment, the size and reason for the change is communicated to the employer or its representative and noted in the record of the audit.

PRACTICE

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WCB website.

EFFECTIVE DATE:	April 1, 2005
AUTHORITY:	s. 88(1)-(3), <i>Workers Compensation Act</i> .
CROSS REFERENCES:	See also the policies on determining payroll (AP1-38-2 to AP1-38-6) of the <i>Assessment Manual</i> .
HISTORY:	Amendments concerning policy application in audits were made effective April 1, 2005. Replaces Policy No. 50:40:00 of the <i>Assessment Policy Manual</i> . Consequential changes were subsequently made to the restatement of the <i>Act</i> in accordance with the <i>Workers Compensation Amendment Act (No. 2), 2002</i> , on March 3, 2003. This Item results from the 2002 "editorial" consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continues



WORKERS' COMPENSATION BOARD OF BC

ASSESSMENT MANUAL

the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

APPLICATION:

The amended policy applies to all decisions on or after April 1, 2005.