

2019/05/29-02

WORKERS' COMPENSATION BOARD
RESOLUTION OF THE BOARD OF DIRECTORS
RE: Instalment Model for Quarterly Reporting

WHEREAS:

Pursuant to section 82 of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492 ("Act"), the Board of Directors must set and revise as necessary the policies of the Board of Directors, including policies respecting compensation, assessment, rehabilitation, and occupational health and safety;

AND WHEREAS:

Pursuant to section 36(2) of the *Act*, the Workers' Compensation Board ("WorkSafeBC") is solely responsible for the management of the accident fund and must manage it with a view to the best interests of the workers' compensation system;

AND WHEREAS:

Pursuant to section 39(1) of the *Act*, WorkSafeBC must collect enough funds from employers to meet all the amounts payable from the accident fund, and these funds may be collected in a variety of ways, including assessment rated on the payroll;

AND WHEREAS:

Pursuant to section 39(2) of the *Act*, assessments may be made in the manner and form and by the procedure WorkSafeBC considers adequate and expedient;

AND WHEREAS:

Pursuant to section 39(3) of the *Act*, assessments may, wherever it is considered expedient, be collected in half yearly, quarterly or monthly instalments, or otherwise;

AND WHEREAS:

WorkSafeBC's Assessment Department has identified an instalment model as an opportunity to simplify reporting and payment requirements for employers currently required to report payroll and remit assessment payments each quarter;

AND WHEREAS:

Item AP1-39-2, *Assessment Payments*, in the *Assessment Manual*, provides further direction on when employers must pay assessments and the manner of payment, along with providing payroll information to WorkSafeBC;

AND WHEREAS:

In consultation with the Assessment Department, the Policy, Regulation and Research Division ("PRRD") developed policy to facilitate the adoption of an instalment model for quarterly reporting;

AND WHEREAS:

The PRRD has undertaken stakeholder consultation on this issue and has advised the Board of Directors on the results of the consultation;

THE BOARD OF DIRECTORS RESOLVES THAT:

1. Amendments to Item AP1-39-2, *Assessment Payments*, in the *Assessment Manual*, as set out in Appendix 1 of this Resolution are approved.
2. This resolution is effective January 1, 2022 and applies to all decisions made on or after January 1, 2022.
3. This resolution constitutes a policy decision of the Board of Directors.

I, Ralph McGinn, hereby certify for and on behalf of the Board of Directors of WorkSafeBC that the above resolutions were duly passed at a meeting of the Board of Directors held in Richmond, British Columbia, on May 29, 2019.

RALPH MCGINN, P. ENG
Chair, Board of Directors
Workers' Compensation Board

BACKGROUND

1. Explanatory Notes

Sections 38 to 40 of the *Act* set out the basic requirements for when employers must pay assessments and the manner of payment. Section 38 requires an employer to provide payroll information to the Board when it first becomes an employer, and at other times as required. The relevant parts of sections **38**, **39**, and **40** are set out below.

2. The Act

Section 38 (in part):

(1) Every employer must

...

(b) cause to be furnished to the Board

(i) when the employer becomes an employer within the scope of this Part; and,

(ii) at other times as required by a regulation of the Board of general application or an order of the Board limited to a specific employer,

an estimate of the probable amount of the payroll of each of the employer's industries within the scope of this Part, together with any further information required by the Board; and

(c) furnish certified copies of reports of the employer's payrolls, at or after the close of each calendar year and at the other times and in the manner required by the Board.

Section 39 (in part):

(2) Assessments may be made in the manner and form and by the procedure the Board considers adequate and expedient, and may be general as applicable to a class or subclass, or special as applicable to an industry or part or department of it.

APPENDIX 1



ASSESSMENT MANUAL

- (3) Assessments may, wherever it is considered expedient, be collected in half yearly, quarterly or monthly installments, or otherwise; and where it appears that the funds in a class are sufficient for the time being, an installment may be abated or its collection deferred.

Section 40(1):

Where the Board

- (a) notifies an employer of assessment rates or percentages determined by the Board in respect of the industries in which the employer is engaged; and
- (b) informs the employer of the manner in which the assessment is calculated, and the date it is payable,

the notice constitutes an assessment under section 39, and the employer must, within the time limited in the notice,
- (c) make a return on the form provided or prescribed by the Board; and
- (d) remit the amount of the assessment.

Section 259:

- (1) The commencement of a review under section 96.2 or of an appeal under this Part respecting a matter described in section 96.2(1)(b) does not relieve an employer from paying an amount in respect of a matter that is the subject of the review or appeal.
- (2) If the decision on a review or an appeal referred to in subsection (1) requires the refund of an amount to an employer, interest calculated in accordance with the policies of the board of directors must be paid to the employer on that refunded amount.

POLICY

(a) Assessment and Remittance schedules

~~A firm will usually pay assessments annually or quarterly, depending on the size of the annual assessment or the industry in which the firm's business undertaking operates. Firms having an annual assessment of less than the threshold amount are usually assessed annually. Firms having an annual assessment of more~~

APPENDIX 1



ASSESSMENT MANUAL

~~than the threshold amount and all firms registered in the Oil, Gas or Mineral Resources, Forestry, or Transportation and Related Services subsectors are usually assessed quarterly.~~

The Act affords discretion to the Board to collect assessment payments in half yearly, quarterly or monthly instalments, or otherwise.

In exercising this discretion, the Board determines an employer's frequency of assessment payments for each calendar year. The Board may establish the frequency and amount of an assessment payment based on the employer's actual payroll, the annual estimate of the employer's payroll, the employer's previous year's payroll, or in a manner the Board considers proper.

Each employer provides the Board with an estimate of its payroll for that calendar year. If the employer has reasonable grounds to expect its payroll to change significantly, the employer must as soon as practicable submit a revised payroll estimate.

The Board may change the usual remittance schedule for an ~~firm~~**employer** if:

- the ~~firm~~**employer** and the Board agree on a different schedule;
- an ~~firm's~~**employer's** annual assessment regularly fluctuates ~~above and below the threshold amount and the Board determines that the firm~~**employer** should remit either annually or ~~quarterly~~**otherwise** regardless of the amount of the annual assessment;
- **an employer is conducting business for less than one year; or**
- an ~~firm's~~**employer's** account is not in good standing or the ~~firm~~**employer** has a history of failing to remit on time, and the Board determines that the ~~firm~~**employer** is required to remit more frequently until the ~~firm~~**employer** establishes an acceptable remittance record.

~~The decision whether or not to change the remittance frequency is based on such factors as the nature of the firm's business operations, and the payment history and status of the account.~~

(b) Manner of reporting and payment

The Board may use any means of communication to advise an employer of the requirements for reporting and payment and accept payment and reports through any recognized payment medium.

APPENDIX 1



ASSESSMENT MANUAL

~~Employers may be required to make a report with each quarterly or annual remittance. Firms~~**Employers** ~~remitting quarterly also~~**are required to** submit a **payroll** report at the end of the year covering the whole year. **Employers may also be required to make a report with each quarterly remittance.** The information required to be provided by these reports may include:

- ~~the amount of payroll, or estimated payroll;~~
- ~~if the employer was in a previous report only required to provide an estimate of the payroll, the actual amount of payroll covered by the earlier report;~~
- excess earnings;
- principals' earnings; and
- contractors' earnings.

~~A report may require the employer~~**Employers are required** to calculate the amount of the assessment and pay any outstanding amount due as a result of the report.

(c) Pre-payment of assessments

If an employer is required to register with the Board for a project that is non-recurring and less than one year in duration, and if an estimate of assessable payroll can be reasonably made, the Board may require pre-payment of an assessment based on the estimate.

The Board may permit other employers to pre-pay assessments for any year on the basis of an estimate of payroll. ~~The Board may agree to provide a percentage discount or similar incentive for such employers.~~

In any situation where pre-payment takes place, the employer must report actual payroll at the end of the year or other times required by the Board. Based on these reports, additional assessments may be required or credits allowed, as the situation may warrant.

(d) Overpayments

If an employer overpays an assessment, the overpayment will be credited to its account. Refunds will be made on closed accounts and may be considered in ~~other unusual circumstances~~ if specifically requested. A refund will not be granted unless:

APPENDIX 1



ASSESSMENT MANUAL

- the employer's account is current;
- there are sufficient credits in the account;
- all required reports and remittances have been received; and
- there is no outstanding balance for which legal action has been commenced or that has been written off.

If the Board makes any changes to an employer's account as the result of an overpayment of assessments, it will inform the employer in writing.

Interest may be paid on an overpaid assessment in the following situations:

- The overpayment resulted from a blatant Board error. For an error to be blatant, it must be an obvious and overriding error. This means that, had the Board officer known that he or she was making the error at the time, it would have caused the officer to change the course of reasoning and the outcome. A "blatant" error cannot be characterized as an understandable error based on misjudgment. Rather, it describes a glaring error that no reasonable person should make. A blatant error would include where an employer is registered in an obviously incorrect classification unit when the employer identified the correct industry at the outset.
- An employer prepays an administrative penalty under Part 3 of the *Act* or a penalty assessment (including an experience rating demerit) pending a review under section 96.2 or an appeal under Part 4 and is then successful in the review or appeal.
- An amount other than a prepayment covered by paragraph 2 is returned to an employer as a result of a successful review under section 96.2 or a successful appeal under Part 4 respecting a matter described in section 96.2(1)(b) of the *Act*. In these cases, interest is payable from the date the employer overpaid the Board.

Where interest is payable, it will apply to penalty assessments and accrued interest on outstanding assessments that were paid during the period in question.

The Board pays simple interest at a rate equal to the prime lending rate of the banker to the government. During the first 6 months of a year interest is calculated at the interest rate as at January 1st. During the last 6 months of a year interest is calculated at the interest rate as at July 1st. Where an overpayment of assessment has resulted from a blatant Board error, interest will

APPENDIX 1



ASSESSMENT MANUAL

not accrue for a period greater than twenty years. For practical reasons, certain mathematical approximations may be used in the calculations.

(e) Transfers between accounts

Any request to transfer funds from one employer's account to another must be made in writing by the employer from whose account the funds will be transferred, unless the funds are being transferred as the result of a Board error.

PRACTICE

The annual assessment threshold for the purpose of determining a firm's remittance schedule for the purpose of part (a) of this policy is set out in Appendix "A" to this *Manual*.

For any relevant PRACTICE information please consult the WorkSafeBC website at www.worksafebc.com.

EFFECTIVE DATE:	January 1, 2020 January 1, 2022
AUTHORITY:	ss. 38(1) , 39(2) and (3), 40(1) and 96(7) <i>Workers Compensation Act</i> .
CROSS REFERENCES:	See also Assessable Payroll (AP1-38-2), Maximum Wage (AP1-38-6), Collection of Assessments (AP1-45-1), Penalties (AP1-47-1) and Reconsiderations, Reviews and Appeals – Reconsiderations of Decisions (AP1-96-1) in the <i>Assessment Manual</i> and with regard to penalties under Part 3 of the <i>Act</i> , D12-196-1 in the <i>Prevention Manual</i> .
HISTORY:	Changes made to facilitate the adoption of an instalment model effective January 1, 2022. Changes made to move annual assessment threshold amount to Appendix "A" of this manual effective January 1, 2020. Consequential changes related to the consolidation of the classification policies were made effective January 1, 2013. Replaces in part Policies No. 20:30:40, 40:30:10 to 40:30:30, 40:30:50, 40:30:60 and 40:70:10 to 40:70:40 of the <i>Assessment Policy Manual</i> and Decision No. 351 in volumes 1 - 6 of the <i>Workers' Compensation Reporter</i> . Consequential changes were subsequently made in accordance with the <i>Workers Compensation Amendment Act (No. 2)</i> , 2002, 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 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.

APPENDIX 1



ASSESSMENT MANUAL

APPLICATION:

~~This policy applies to all decisions made on or after January 1, 2020.~~ **This policy applies to all decisions made on or after January 1, 2022.**