

Policy and Research Division**2009 – 2011 Policy Priorities****Assessments Workplan****1. Inclusion of Shareholder Dividends in Assessable Payroll – 2008/2009**

Item AP1-38-2 of the *Assessment Manual* (“AM”) provides that dividends are not considered part of payroll unless paid for services rendered to the company. Current practice of the Assessment Department, however, is to include dividend payments in assessable payroll where they exceed T4 amounts, without regard to the value of the shareholders’ activities. A review of the policy is required to address this inconsistency.

2. Combining Experience Rating of Affiliated Firms – 2009

The Assessment Department has raised concerns that there is no specific policy to address affiliated firms acting in concert in business. The proposed project would determine whether affiliated firms should share a common experience rating.

3. Procedure for Applying Sections 47(2) and (3) of the Act – 2009

Policy relating to sections 47(2) and (3) of the *Workers Compensation Act* (“Act”) are contained in policy item #115.11 of the *Rehabilitation and Services Manual* (“RS&CM”). For reasons of consistency and transparency, the Assessment Department has requested that the policy be updated to remove outdated practice information and moved to the AM.

4. Classification Policy Review – 2009

The Assessment Department has requested a review of the classification policies to address the following two issues:

a) Adoption of an Annual Decision Cycle for Firm Classifications

The classification of a firm within the Classification System is a key component in the determination of a firm’s annual assessment. The other two components of a firm’s annual assessment, the base rate and experience rating adjustment, are annual processes, which allow WorkSafeBC to make necessary adjustments to the assessment system to maintain an adequate accident fund.

Decisions regarding the classification of a firm within the Classification System are not currently made annually. Once a classification decision is made, the Assessment Department has 75 days in which to reconsider the decision under section 96(4) of the Act. After 75 days, a change in the classification decision can only be made where there is a change in the firm’s business operations, firm non-compliance or a change in classification policy.

As a result, even when the Assessment Department recognizes that a firm is misclassified, there is time-limited ability to correct. The impact of this is cumulative. Over time, more classification errors will likely enter the system, and the data generated from the system used to set base rates will become progressively less reliable.

A possible approach to deal with this challenge is for the Assessment Department to make decisions concerning each firm's classification on an annual basis when each firm's experience rating adjustment and the base rates for all classifications are set. This could allow the correction of misclassified firms on an annual basis. The Assessment Department seeks a review of the proposal to adopt an annual classification decision cycle and of the corresponding classification policies.

b) Consistent Language in Classification Policies

The *AM* came into effect in 2003. Since then, WorkSafeBC has done several reviews of specific classification policies. A review of all five classification policies is required in order to determine whether to consolidate some or all of the policies, to ensure consistency between policies and to ensure consistency in the description and usage of terms in the policies.

The aim of this project is to improve the consistency in interpretation and application of the policies, by ensuring that the language used in the classification policies is consistent.

5. Clarifying the Obligation of Firms to Maintain and Furnish Records – 2009

An issue that has arisen on review and appeal is the failure of some firms to keep complete and accurate payroll information and to supply such information to WorkSafeBC. This includes financial data and information regarding the workplace status of subcontractors, all of which is required to determine assessable payroll figures. The *Act* provides, under section 38(1) that maintaining and furnishing this information is the responsibility of all employers. However, on review and appeal, some firms have argued that WorkSafeBC has power of inquiry under the *Act* and therefore is responsible for performing its own investigation to obtain the required information.

A review of the *AM* policies concerning payroll reporting and audits is required to clarify WorkSafeBC's power of inquiry and a firm's responsibility to keep and supply payroll records as required by the *Act*. At issue is whether there is adequate guidance in policy with respect to the following:

- an employer's duty to compute and furnish an estimate of the probable amount of its assessable payroll;
- an employer's duty to maintain necessary records;
- WorkSafeBC's authority with respect to audit and inquiry; and
- the nature and scope of WorkSafeBC's audit function.

6. Contractor Liability – Item AP1-51-1 – 2009

At issue is a review of the minimums in effect for the exemptions provided by Item AP1-51-1 - *Contractor Liability* for prime contractors and homeowners. Currently the thresholds, which have been in place since 1985, are set at \$200 and \$500 respectively in Appendix A of the *AM*. These minimum amounts require review to determine whether adjustments are necessary.

7. Section 4 of the Act and the Fishing Industry Regulations – 2010

The Assessment Department is undertaking a review of the fishing industry both in terms of status determination and assessments obligations. It is anticipated that following this review, a review of the *Fishing Industry Regulations* may be required in order to clarify assessment obligations.