 <p>Yukon Workers' Compensation Health and Safety Board</p>	<b>Part:</b>	<b>Employer Assessments</b>		
	<b>Board Approval:</b>	<b>Original signed by Chair</b>	<b>Effective Date:</b>	<b>July 1, 2013</b>
	<b>Number:</b>	<b>EA-13</b>	<b>Last Revised:</b>	
	<b>Board Order:</b>		<b>Review Date:</b>	

## TAXI CABS

### GENERAL INFORMATION

In Yukon, workers are covered by the *Workers' Compensation Act* (the *Act*). Their employers must pay assessment premiums to the Yukon Workers' Compensation Health and Safety Board (YWCHSB) so that workers are protected if they have work-related injuries.

Sole proprietors may choose to be covered and pay their own premiums.

Persons providing taxi cab services are workers, employers or sole proprietors under the *Act*.

### PURPOSE

This policy provides direction to persons providing taxi cab services to determine if they are workers, employers or sole proprietors under the *Act*.

- Workers must be protected by the workers' compensation coverage of their employers.
- Employers must have workers' compensation coverage for their workers.
- Sole proprietors have the option of getting workers' compensation coverage for themselves.

YWCHSB applies its policy EA-02, "Determining the Status of a Person: Employer, Worker, Sole Proprietor or Non-Working Director" to determine in which category a person fits.

### DEFINITIONS

1. **Employer:** every person, partner, firm, association, organization, or corporation having in their service one or more workers in an industry, including any person deemed under the *Act* by YWCHSB to be an employer. This definition is from section 3(1) of the *Act*.

2. **Sole Proprietor:** an unincorporated, self-employed person who carries on or engages in any industry, as stated in section 3(1) of the *Act*.
3. **Worker:** a person who performs services for an employer under a contract of service or apprenticeship. The full definition, including exclusions and cases where workers can be designated, is explained in section 3(1) of the *Act*.

## PREVENTION

Preventing workplace injuries is the responsibility of everyone in the workplace. YWCHSB encourages employers, workers, health care providers and other parties to work together to prevent work-related injuries. When an injury occurs, workers, employers and YWCHSB must co-operate to return the worker to safe, suitable and available work as soon as functionally possible. This helps to make Yukon workplaces safe, ultimately leading to lower assessment rates.

## POLICY STATEMENT

### 1. Determining Work Relationship

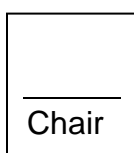
YWCHSB applies tests to determine the work relationship between two persons. Policy EA-02, "Determining the Status of a Person: Employer, Worker, Sole Proprietor or Non-Working Director" describes the factors considered when determining this relationship. Persons providing taxi cab services are generally in the following categories:

#### a) Worker

- i) A person who is hired and paid a wage by an employer providing taxi cab services is a worker. The employer must pay workers' compensation premiums for the worker. The vehicles are owned by the employer.
- ii) A person who leases a taxi from an employer providing taxi cab services and pays a set fee for use of the taxi is a worker of that employer. The employer must pay workers' compensation premiums for the worker. The vehicles are owned by the employer.

#### b) Sole Proprietor

- i) A person who owns a vehicle and operates it as an independent taxi cab business is a sole proprietor and may apply for optional workers' compensation coverage. YWCHSB policy EA-04, "Optional Coverage for Sole Proprietors, Partners or Employers" sets the terms and conditions.
- ii) A person who owns a vehicle and operates it as a taxi cab under the name of another taxi employer for a set fee or similar arrangement may be a sole proprietor if he/she meets the criteria of YWCHSB policy, EA-02, "Determining the Status of a Person: Employer, Worker, Sole Proprietor or



Non-Working Director.” A sole proprietor may apply for optional workers’ compensation coverage.

If the person does not qualify for or choose to purchase optional coverage, he/she is then a worker of the other taxi employer and the employer must purchase workers’ compensation for this person. This is the case even if the worker is paying for his/her own vehicle insurance, gas and other expenses.

c) Employer

- i) A person who owns vehicles, operates them as taxi cabs and hires workers to drive, work in the office (which may include dispatch), do mechanic-related or other work, is an employer and must pay workers’ compensation premiums for all his/her workers.
- ii) An incorporated company providing taxi cab services is an employer and must pay workers’ compensation premiums for all workers, including directors and officers of the company.

The diagram at Appendix A illustrates the employer, worker and sole proprietor situations.

## 2. Assessment Premium Calculation

Assessment premiums for taxi cab services are determined as follows:

- a) For all workers issued T4 or T4A slips, the employer’s assessment is based on gross payroll amounts.
- b) For all workers not issued T4 or T4A slips, the employer’s assessment is based on each 8 or 12-hour shift (as applicable), based on industry rates set by Order of the Board of Directors.
- c) A sole proprietor may purchase optional coverage up to the value of the maximum wage rate for the year, or as low as the minimum assessment fee set by Order of the Board of Directors.

Optional coverage should closely reflect the sole proprietors’ earnings. If they are injured, their loss of earnings benefits are based on actual proven earnings or the amount of coverage they’ve purchased, whichever is less. This is according to YWCHSB policy EA-04, “Optional Coverage for Sole Proprietors, Partners or Employers.”

### 3. Calculation of Loss of Earnings Benefits

For a work-related injury, the loss of earnings benefits are calculated as follows:

- a) For workers issued T4 or T4A slips, their loss of earnings benefits are calculated according to YWCHSB policy EL-01, "Loss of Earnings Benefits."
- b) For workers not issued T4 or T4A slips, their loss of earnings benefits are calculated according to YWCHSB policy EL-01, "Loss of Earnings Benefits." If YWCHSB has difficulty confirming the worker's earnings, it may calculate benefits based on the worker's verified hours of work and the Yukon minimum wage.
- c) In situations where a worker is paying a daily fee for use of the employer's taxi cab or dispatch services, YWCHSB shall consider the impact of the fee when calculating the worker's earnings.
- d) A sole proprietor's loss of earnings benefits are based on the lesser of his/her actual proven earnings and the amount of coverage purchased, as set out in YWCHSB policy, EA-04, "Optional Coverage for Sole Proprietors, Partners or Employers."

### 4. Payment of Wages for Day of Injury

Section 27 of the *Act* states when a worker has a work-related injury and cannot work all or part of the day he/she was injured, the employer must pay the worker's earnings for the day of injury.

In situations where a worker is paying a daily fee for use of the employer's taxi cab or dispatch services, the employer shall reduce the fee based on the number of hours the worker was able to work on the day of injury.

This does not apply to a sole proprietor with optional coverage.

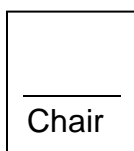
*For example, if the worker pays a daily fee of \$125 for the use of the employer's taxi cab and the worker is injured at 9:00 a.m. and normally works a 12 hour shift from 4:00 a.m. to 4:00 p.m., the employer shall reduce the fee as follows:*

*5 hours worked*

*7 hours not worked due to work-related injury*

*Fee = \$125 x 5/12 = \$52.08*

*The worker will only be charged a daily fee of \$52.08 for the day of injury.*



## 5. Return to Work

YWCHSB's Return to Work and Rehabilitation policies (policies RE-01 to RE-13) apply to workers and employers who provide taxi cab services.

## ROLES AND RESPONSIBILITIES

### YWCHSB

YWCHSB is responsible for communicating the requirements of the *Act* and policies to employers and workers. YWCHSB is responsible for adjudicating claims, providing return-to-work and rehabilitation assistance, collecting assessments and levying penalties on non-compliant employers when appropriate.

### The Worker

The worker is responsible for providing YWCHSB with complete and accurate earnings information as soon as possible once the claim for compensation has been accepted. The worker is also responsible for informing YWCHSB of any change in circumstances that affects the claim for compensation. The worker is responsible for complying with the provisions of the *Act* and policies.

### The Employer

The employer is responsible for registering with YWCHSB and for filing employer payroll returns on time and paying assessments on time. The employer is also responsible for notifying YWCHSB of any change in status. The employer is responsible for complying with the provisions of the *Act* and policies.

## APPLICATION

This policy applies to all persons who are workers, sole proprietors and employers providing taxi cab services as well as to the Board of Directors, President/CEO and staff of YWCHSB and to the Workers' Compensation Appeal Tribunal.

## EXCEPTIONAL CIRCUMSTANCES

In situations where the individual circumstances of a case are such that the provisions of this or any policy cannot be applied or to do so would result in an unfair or an unintended result, YWCHSB will decide the case based on its individual merits and justice in accordance with YWCHSB policy EN-02, "Merits & Justice of the Case". Such a decision will be considered for that specific case only and will not be precedent-setting.

## APPEALS

A person can request a reconsideration of a decision on their status by submitting a written request for review to the Director of Assessments.

YWCHSB's assessment decisions made under this policy can be appealed in writing to the YWCHSB Board of Directors in accordance with subsection 85(1) of the *Act*. Notice

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Chair

of the appeal must be filed within 180 days of the date of the decision by YWCHSB, in accordance with subsection 85(2).

Decisions made by YWCHSB under this policy affecting workers' claims for compensation can be appealed in writing to the hearing officer of YWCHSB in accordance with subsection 53(1) of the *Act*. Notice of the appeal must be filed within 24 months of the date of the written decision by YWCHSB, in accordance with section 52 of the *Act*.

### **ACT REFERENCES**

Sections 3, 5, 27, 52, 53 and 85

### **POLICY REFERENCES**

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

EL-01, "Loss of Earnings Benefits"

EA-04, "Optional Coverage for Sole Proprietors, Partners or Employers"

EA-02, "Determining the Status of a Person: Employer, Worker, Sole Proprietor or Non-working Director"

RE-01 to RE-13, Return to Work and Rehabilitation policies

### **HISTORY**

AS-13, Assessment of Operators of Taxi-cabs effective January 1, 1993, revoked July 1, 2008

No 15, Assessment of Operators of Taxi-cabs effective January 1, 1987, revoked December 31, 1992

Chair

