

WAGE EARNER PROTECTION PROGRAM APPLICATION GUIDE FOR PAYMENT OF TRUSTEE FEES AND EXPENSES (For proceedings on or after November 20th, 2021)

The *Wage Earner Protection Program Act* (WEPP Act) payment mechanism to mitigate the administrative burden the Program could have on insolvency professionals. It has been designed to reimburse Trustees for WEPP duties performed under the legislation and to compensate for the overall cost of administering the WEPP when very few or no assets are left in the estate for remuneration as a result of the super-priority (sections 81.3 & 81.4 of the Bankruptcy and Insolvency Act). Any WEPP qualifying insolvency proceeding that takes place on or after November 20, 2021 could qualify for a payment under the revised payment scheme as per recent amendments made to the Regulations.

Trustees have a number of specific duties under the WEPP Act that allow for the operation of the Program. Specifically, trustees are responsible for identifying current and past employees, determining wages owed, providing information about the WEPP to potential claimants, and submitting specific information via a Trustee Information Form (TIF) to Service Canada for each WEPP claimant to enable the processing the WEPP claim.

Under the WEPP Act, proceeds from the estate must be used to pay for this work, when there are enough assets to do so. When there are not enough assets remaining in an estate, insolvency professionals have been reluctant to assume the financial risks associated with accepting estate administration, as they have no certainty of payment for their services.

In situations where there are insufficient assets, WEPP Regulations allow the Minister to pay an insolvency professional for WEPP specific work, and in some cases, for broader estate administration duties. This payment scheme is to encourage insolvency professionals to accept the administration of low or no asset bankruptcies so that terminated employees can access the WEPP.

AM I ELIGIBLE FOR PAYMENT?

Eligibility is determined using information submitted on the *Trustee Claim Form*.

Note: Please refer to the WEPP Act and WEPP Regulations for full details relating to the calculation of eligible payment amounts.

To be eligible for a payment in relation to the performance of the trustee's duties under the WEPP Act; as described under section 18 of the WEPP Regulations:

- the WEPP qualifying insolvency proceeding must show a deficit; and
- the amount of any third party deposits and guarantees in respect of the fees and expenses is less than the deficit; and
- a completed Trustee Claim Form has been submitted to the WEPP Processing Centre.

WHO CAN APPLY AND WHEN?

Who can apply:

Only **one** trustee can apply per estate or property. In the case of multiple insolvency professionals involved in a bankruptcy, it is the responsibility of the last insolvency professional eligible for payment under sections 18 of the WEPP Regulations to apply for payment on behalf of all professionals owed eligible fees and expenses. The payment should be divided as per the insolvency professionals' agreement or the Court Order. If there is more than one proceeding for one employer, only the last professional of each proceeding will be compensated.

When can I apply?

You may apply for payment when you are able to confirm that the estate is in deficit and third-party deposits and guarantees in respect of the fees and expenses is less than the deficit.

HOW DO I APPLY?

1. Mail a completed Trustee Claim Form to the WEPP Processing Centre at the address below.
**WEPP Processing
Centre
P.O. Box 5900
Cornwall, ON
K6H 6J6**
2. Service Canada will determine eligibility, issue a decision letter and generate payment, if applicable.

HOW DO I COMPLETE THE TRUSTEE CLAIM FORM?

To process a claim and issue payment, Service Canada must receive a Trustee Claim Form that has been completed in full. **All incomplete applications will be returned to the sender.** The *Trustee Claim Form* issued by Service Canada is the only application form accepted by Service Canada. To complete the *Trustee Claim Form*:

All boxes on the form must be completed with the exception of the following:

- Box 10 (Trustee Discharge Date Duties) requires a date only if applicable.
- Enter a date in box 15 (Date of Employer's Insolvency) as appropriate to correspond with the type of proceeding; and
- Box 17 (If you answered yes to Question 16, please provide the dollar amount of that guarantee and third party deposit) requires a response only if you circled "Yes" in box 16.
- Box 19 (If you answered yes to Question 18, please provide the dollar amount of the deficit) requires a response only if you circled "yes" in box 18.

GLOSSARY OF TERMS

Guarantee

For the purposes of completing the *Trustee Claim Form* a guarantee means:

A guarantee in respect of fees and expenses in relation to the trustee's performance of their duties under the *WEPP Act*. The value of any guarantee provided must be declared.

Duties performed by a trustee under the *WEPP Act* and *Regulations*:

The duties imposed on trustees under subsection 21(1) of the *WEPP Act* and sections 15 and 16 of the *WEPP Regulations*.

Fees and expenses:

Fees and expenses incurred by a trustee for performing the duties listed under subsection 21(1) of the *WEPP Act* and sections 15 and 16 of the *WEPP Regulations* in the course of an administration a bankruptcy.

Wage Earner Protection Program Trustee Claim Form (For proceedings on or after November 20th, 2021)

Please mail this completed form to:

WEPP Processing Centre
P.O. Box 5900
Cornwall, ON
K6H 6J6

**PLEASE NOTE THAT ALL FIELDS ARE MANDATORY UNLESS OTHERWISE INDICATED.
INCOMPLETE FORMS WILL BE RETURNED TO THE SENDER.**

TRUSTEE INFORMATION			
1) Trustee (Corporate Name)	2) Street Address	3) City	
4) Province/territory	5) Postal code	6) Telephone number	
7) Trustee License Number		8) Name of Trustee (Individual Responsible)	
9) Communication preferred in: ☐ English ☐ French		10) Trustee Discharge Date Duties (<i>not mandatory</i>) (YYYY/MM/DD)	
BUSINESS BANKRUPTCY INFORMATION			
11) Employer Name		12) Estate ID (Bankruptcy number)	
13) Employer's Canada Revenue Agency business number	14) Type of insolvency: ☐ Bankruptcy ☐ Companies' Creditors Arrangement Act ☐ Foreign proceeding ☐ Proposal under the BIA (Division 1, Part III)		15) Date of Employer's Insolvency (if applicable) (YYYY/MM/DD)
16) Was any deposits or guarantee(s) provided by any third parties in respect of the fees and expenses related to the performance of duties under the WEPP Act? ☐ Yes ☐ No		17) If you answered yes to Question 16, please provide the total dollar amount of the guarantee(s) and/or third party deposit(s) \$	
18) Is there a deficit in the estate or in the property? ☐ Yes ☐ No		19) If you answered yes to question 18, please provide the amount of the deficit \$ (Please do not express as a negative number)	

PLEASE COMPLETE PART A AND B**A) CLAIM CALCULATION – FOR THE PERFORMANCE OF THE WEPP DUTIES**

20) Number of wage earners for which Trustee/Receiver Information Forms were submitted to Service Canada for this WEPP qualifying insolvency proceeding.

Total number: |

B) CLAIM CALCULATION – FOR THE ADMINISTRATION OF THE ESTATE OR PROPERTY

21) Total value of former employer's assets (X)

\$ |

22) Total value of the claims that have priority over the fees and expenses of the trustee (Y)

\$ |

23) Sum of fees and expenses for (to a maximum of \$6000, as adjusted, and not including applicable sales taxes):

- taking possession of property, making an inventory and securing and insuring property \$ |
- for mail-outs to creditors to advise them of the meeting of creditors and the discharge hearing of the trustee \$ |
- for the cost of publishing a newspaper notice of the bankruptcy \$ |
- the official receiver and the registrar and \$ |
- for other items that may be allowed by the court on the taxation of the statement of receipt and disbursements to a maximum of \$1,000 \$ |

NOTE: Maximum amounts are adjusted for Consumer Price Index annually and the max amount for the current calendar year can be found on the following site: <https://www.canada.ca/en/employment-social-development/services/wage-earner-protection/trustee/payment.html>

Total \$ |

24) Applicable sales taxes paid on fees and expenses noted in Question 23

\$ |

DECLARATION

I certify that I am the last trustee in the administration of this estate who is eligible for WEPP payment, that the information contained herein is accurate and complete to the best of my knowledge. I understand that the Minister may request that I provide a copy of the final statement of receipts and disbursements.

The personal information you provide in this application form is collected under the authority of the *WEPP Act* and protected under the *Privacy Act*, *WEPP Act*, and the *Department of Employment and Social Development Canada / Service Canada Act*. Participation is voluntary; however, refusal to provide this personal information could result in not being considered for a payment under the WEPP.

The information will be used by the Department of Employment and Social Development Canada / Service Canada to administer the WEPP. The information may also be used for policy analysis, research and evaluation purposes, for which various sources of information under the custody and control of Employment and Social Development Canada / Service Canada Employment may be linked. Information may also be used for audit purposes.

The personal information collected on this form will be retained in Personal Information Bank number ESDC PPU 035. Under the *Privacy Act*, individuals have access and correction rights to their personal information. Instructions on how individuals can exercise these rights are outlined in the publication Info Source, a copy of which is available at any Service Canada Centre or at www.canada.ca/en/employment-social-development/corporate/transparency/access-information/reports/infosource.html.

Trustee Name (Printed):

Date (YYYY/MM/DD): |

Signature:

Telephone (Direct Line):