

WAGE EARNER PROTECTION PROGRAM APPLICATION GUIDE FOR PAYMENT OF TRUSTEE / RECEIVER FEES AND EXPENSES

The *Wage Earner Protection Program Act* (WEPP Act) has created a payment mechanism to mitigate the administrative burden the Program could have on insolvency professionals. It has been designed to reimburse trustees and receivers for WEPP duties performed under the legislation and to compensate for the overall cost of administering the WEPP when no assets are left in the estate as a result of the super-priority (sections 81.3 & 81.4 of the *Bankruptcy and Insolvency Act*).

WHAT COMPENSATION IS AVAILABLE UNDER THE WEPP?

There are two types of payment for which a trustee/receiver may be eligible for under WEPP:

- a payment in relation to the performance of their duties under the *WEPP Act*; as described under section 18 of the *WEPP Regulations*; and
- a payment for the administration of the estate or property; as described under section 19 of the *WEPP Regulations*.

Trustees/receivers may be eligible for a payment under section 18 of the *WEPP Regulations* **or** for a payment under section 19 of the *WEPP Regulations*, **or for both**. The eligibility criteria for each type of payment are independent, so that eligibility for one type of payment has no bearing on eligibility for the other.

AM I ELIGIBLE FOR PAYMENT?

Eligibility is determined using information submitted on the *Trustee/Receiver 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/receiver's duties under the *WEPP Act*; as described under section 18 of the *WEPP Regulations*:

- the final Statement of Receipts and Disbursements (SRD) for the bankruptcy or receivership shows a deficit;
- no guarantee has been provided by a creditor of the employer in respect of the fees and expenses in relation to the duties under the *WEPP Act*;
- the fees in relation to the performance of the duties under section 21 of the *WEPP Act* are equal to at least 10% of the total fees charged for the administration of the bankruptcy or receivership;
- a completed *Trustee/Receiver Claim Form* has been submitted to the WEPP Processing Centre; and
- if a payment is issued by Service Canada, a copy of the final SRD for the estate or property along with a completed *Supplementary Trustee/Receiver Claim Form* must be submitted to the the WEPP Processing Centre.

Important: In cases where a payment has been issued, failure to meet all eligibility criteria after the SRD has been finalized, may result in an overpayment situation.

To be eligible for a payment for the administration of the estate or property, as described under section 19 of the *WEPP Regulations*:

- a deficit must exist in the estate or property;
- the amount determined in accordance with the following formula must be greater than zero and less than, or equal to, the value of the rights under sections 81.3 and 81.4 of the *Bankruptcy and Insolvency Act*: $X - Y$
where:
X is equal to the current assets realized, and
Y is the sum of the value of the rights under sections 81.1 and 81.2 of the *Bankruptcy and Insolvency Act* and the amounts referred to in subsection 67(3) of that Act that have been deemed to be held in trust;
- the value of the rights under sections 81.3 and 81.4 of the *Bankruptcy and Insolvency Act* constitutes the entire value of the property in possession of the trustee or receiver;
- a completed *Trustee/Receiver Claim Form* has been submitted to the WEPP Processing Centre; and
- if a payment is issued by Service Canada, a copy of the final SRD for the estate or property along with a completed *Supplementary Trustee/Receiver Claim Form* must be submitted to the the WEPP Processing Centre.

Important: In cases where a payment has been issued, failure to meet all eligibility criteria after the SRD has been finalized, may result in an overpayment situation.

WHO CAN APPLY AND WHEN?

Who can apply:

Only one trustee/receiver can apply per estate or property. In the case of multiple insolvency professionals involved in a bankruptcy or a receivership, it is the responsibility of the last insolvency professional eligible for payment under sections 18 and/or 19 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. Please note that only one WEPP payment can be issued per estate or property.

When can I apply?

You may apply for payment when the SRD for the estate or property has been prepared with the exception of any anticipated WEPP payment amounts.

HOW DO I APPLY?

1. After the SRD for the estate or property has been prepared with the exception of any anticipated WEPP payment amounts, mail a completed *Trustee/Receiver Claim Form* to the WEPP Processing Centre at the address below. Please note that application for payment under both sections 18 and 19 of the *WEPP Regulations* is made on the same Trustee/Receiver Claim form.

WEPP Processing Centre
P.O. Box5900
Cornwall,ON
K6H 6J6

2. Service Canada will determine eligibility, issue a decision letter and generate payment, if applicable.
3. To complete the application process in cases where a payment has been issued, you are **required to mail a copy of the final SRD for the estate or property along with a completed *Supplementary Trustee/Receiver Claim Form* to the WEPP Processing Centre.**

Please note: This documentation must be submitted by the trustee or receiver when discharged or upon completion of his or her duties for the estate or property when the SRD is being sent to the Canada Revenue Agency.

4. To request the ***Supplementary Trustee/Receiver Claim Form*** contact the WEPP dedicated toll-free number at 1-866-683-6516.

HOW DO I COMPLETE THE TRUSTEE/RECEIVER CLAIM FORM?

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

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

- Box 10 (Trustee Discharge Date / Date Receiver Completed Duties) requires a date only if applicable.
- Enter a date in either box 14 (Date of Employer's Bankruptcy) or box 15 (Date of Employer's Receivership) as appropriate to correspond with the type of proceeding;and
- Box 19 (If you answered yes to Question 18, please provide the dollar amount of that guarantee) requires a response only if you circled "Yes" in box 18.

GLOSSARY OF TERMS

Guarantee

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

A guarantee in respect of fees and expenses in relation to the trustee or receiver's performance of their duties under the *WEPP Act*. It should be noted that such guarantee does not have to cover the total amount of fees and expenses to be considered under the regulations, partial guarantees must be declared as well.

Duties performed by a trustee or receiver under the *WEPP Act* and *Regulations*: The duties imposed on trustees and receivers 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 or receiver 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 or receivership.

Wage Earner Protection Program Trustee/Receiver Claim Form

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/RECEIVER INFORMATION		
1) Trustee or Receiver (Corporate Name)	2) Street Address	3) City
4) Province/territory	5) Postal code	6) Telephone number
7) Trustee/Receiver License Number		8) Name of Trustee/Receiver (Individual Responsible)
9) Communication preferred in: English French		10) Trustee Discharge Date / Date Receiver Completed Duties <i>(not mandatory)</i> _____ (Y/M/D)
BUSINESS BANKRUPTCY/RECEIVERSHIP INFORMATION		
11) Employer Name		12) Estate ID (Receivership/Bankruptcy number)
13) Employer's Canada Revenue Agency business number _____		14) Date of Employer's Bankruptcy (if applicable) _____ (Y/M/D)
15) Date of Employer's Receivership (if applicable) _____ (Y/M/D)		16) Total trustee/receiver fees charged for the administration of the bankruptcy or receivership \$ _____
17) Trustee/receiver fees in relation to the performance of duties under section 21 of the <i>Wage Earner Protection Program Act</i> \$ _____		18) Was any guarantee provided by a creditor of the employer in respect of the fees and expenses related to the performance of duties under the WEPP Act? Yes No
19) If you answered yes to Question 18, please provide the dollar amount of that guarantee \$ _____		20) Is there a deficit in the estate or in the property? Yes No
21) Amount of the deficit \$ _____ (Please do not express as a negative number)		
22) Did the value of the rights under section 81.3 and 81.4 of the <i>Bankruptcy and Insolvency Act</i> constitute the entire value of the property in the possession of the trustee or receiver? Yes No		

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

23) Number of wage earners for which *Trustee/Receiver Information Forms* were submitted to Service Canada in this bankruptcy/receivership

Total number: _____

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

24) Value of current assets realized from the employer's assets

\$ _____

25) Sum of the value of the rights under section 81.1 and 81.2 of the *Bankruptcy and Insolvency Act* and the amounts referred to in subsection 67(3) of that Act that have been deemed to be held in trust

\$ _____

26) Value of the rights under sections 81.3 or 81.4 of the *Bankruptcy and Insolvency Act*

\$ _____

27) Fees and expenses for taking possession of property, making an inventory and securing and insuring property; for mail-outs to creditors 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; of 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.

\$ _____

FINAL STATEMENT OF RECEIPTS AND DISBURSEMENTS

28) Total Receipts

\$ _____

29) Total Disbursements

\$ _____

Note: The amounts indicated above must reflect the information on the final Statement of Receipts and Disbursements for the bankruptcy or receivership with the exception of any anticipated WEPP payments

DECLARATION

I certify that I am the last trustee/receiver 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, the Statement of Receipts and Disbursements for the bankruptcy or receivership (as applicable) shows a deficit, and a final copy of the Statement of Receipts and Disbursements will be sent to Service Canada within 30 days of the completion of my duties or discharge.

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 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 (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 ESDC 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 <http://infosource.gc.ca>.

Trustee/Receiver Name (Printed): _____

Date: _____

Signature: _____

Telephone (Direct Line): _____