

NY Transportation WC Trust

(“NYT Trust” or “Trust”)

Frequently Asked Questions Related to Assessment Billing

Assessment Billing (Issued June 1, 2014)

I. PRO RATA DEFICIENCY BILLING

How was my pro rata deficiency determined?

The pro rata deficiency was determined as follows:

1. Using membership roster data (i.e., Name of Employer (“Member”), Total Audited Payroll, Start Date, End Date), SAFE, LLC, the Trust Administrator (“Administrator”) determined for each year of the Trust whether the Member participated in the Trust in that particular year.
2. If the Member did participate in that year, the Administrator calculated the percentage of the deficit for a particular Trust year to be allocated to each Member who participated in that Trust year by dividing the Member’s audited premium by the total allocated premium of the Trust for that year. This results in the “allocation percentage” for a particular Member.
3. The Administrator then calculated the deficit allocated to each Member for that year by multiplying the allocation percentage by the deficit for that year.
4. The total deficit for a particular Trust year was calculated based on the most recent actuarial report and audited financial statement.
5. The Administrator then totaled the allocation for all the years that the Member participated in the Trust.
6. For the years that have a surplus, the surplus determined for the years was distributed to the participating Members as a credit to their total deficit. Each participating Member’s credit was calculated based on their percentage (%) of premium to the total premium of the surplus year.

Please note that for each year (or part of a year) in which you were a Member of the Trust, ***you are jointly and severally liable for the entire amount of the deficit for that year of which you were a Member of the Trust*** (see Section II below on joint and several liability) ***and this joint and several liability may result in additional billings.***

The NYT Trust Board of Trustees, in conjunction with the Administrator, has made a good faith effort to reasonably calculate each Member’s pro rata deficiency based on the information available to the NYT Trust Board and the Administrator at the time of such assessment. The methodology incorporated to determine assessment amounts per Member was reviewed by the WCB prior to issuing the assessment invoice.

What are the payment plan options available to me at this time?

To facilitate collections and remain solvent, the Trust is offering one payment plan option(s). The plan: 1) a payment amount that equates to the Members pro rata deficit allocation divided by 12 months interest free. 2) a lump sum payment equal to 95% of the total amount.

If I pay and the Trust becomes insolvent and taken over by the Workers' Compensation Board do I receive credit for my assessment payments being paid now?

Yes, in such cases you may see a dollar to dollar credit.

What happens if the membership doesn't pay the assessment?

If the months of available cash fall below a certain number then the Workers' Compensation Board will assume the management of the Trust as it would be considered insolvent. This will result in a more aggressive approach for collections including but not limited to, penalties, interest, lawsuits and stop work orders.

What if a Member has questions as to the years it was in the Trust or the amounts credited to the Member on the invoice for the pro rata deficit assessment?

The Member should provide documentation on these issues to the Administrator at the address set forth in the cover letter. NYT Trust appointed legal counsel may be engaged by the Administrator for review on behalf of the Trust.

II. JOINT AND SEVERAL LIABILITY

What does joint and several mean?

Joint and several liability means that each Member is liable for the entire amount of each year's deficit for which the Member participated in the Trust. The liability may be apportioned either among the Members or assessed against only one Member. This means that each Member is potentially liable for the entire amount of the deficit owed for the period for which it was a Member of the Trust. ***It must also be remembered that this joint and several liability may result in additional billings, until all amounts owed are paid.***

What Members am I jointly and severally liable with?

As a Member of a group trust, an employer is jointly and severally liable for all obligations incurred during its period of membership. You are jointly and severally liable with all other employers who participated in the NYT Trust at the same time.

If my company never had a claim, am I still jointly and severally liable?

Yes. Joint and several liability applies even if you never had a claim.

The Trust has excess policies on a per occurrence basis. Does that mean that my exposure under joint and several is limited?

The Trust is required to maintain, and has maintained, an excess policy on a per occurrence basis. This means the excess policy insurance carrier is or will be responsible for any amounts on a particular claim which exceed the retention, or deductible limit. However, most claims fall well below the retention limit and this type of coverage only protects the Trust from the most severe, or catastrophic claims. Moreover, the deficit and the resultant invoices already reflect appropriate reductions in liabilities as a result of excess insurance where such insurance was triggered.

What happens if you collect more than you need to pay for the deficit?

If more money is collected than is needed to meet all of the financial obligations of the Trust, such funds will be returned to Members proportionally, if they are not in default status. However, refunds to Members will not be returned until all obligations of the Trust have been extinguished.

III. INFORMATION AVAILABLE

Under what section of the Workers' Compensation Law are the Trusts permitted?

Trusts are permitted under WCL Section 50 (3-a). Rules and Regulations governing trusts can be found in NYCRR Title 12 Part 317.

As a Member, what information is available to me regarding the Trust?

A Member is entitled to any of the records which pertain to their period of participation, including financial and actuarial reports and membership information. However, any information provided may be redacted to protect the privacy of individual claimants and/or other Members. Relevant information can be found on the following website:

www.safetpa.com by clicking "NYT Trust" in the upper right corner and then entering the password: nytdocs

IV. DISSOLUTION OR BANKRUPTCY

What if my company is dissolved or bankrupt?

Additional information and documentation must be provided in order for the Trust's legal counsel to review and consider the impact, if any, of the claimed dissolution. As to dissolution, please provide the proof of the date of dissolution and any available information as to the distribution of the assets upon such dissolution. This information should be provided to the Administrator at the address set forth in the cover letter. Additional information may be required by the Trust's legal counsel.

Information related to your bankruptcy filing should be provided to the Administrator at the address set forth in the cover letter

What is the impact if a Member is dissolved or bankrupt?

As previously stated, the Members of the Trust are jointly and severally liable for any deficits attributable to the period in which they participated in the Trust. Therefore, an additional deficit assessment of the Members could occur.

V. RESPONSE TO DEFICIT ASSESSMENT BILLING

What happens if I do not pay my obligation to the Trust?

If a Member does not pay their deficit assessment timely, it will increase the likelihood of falling below the solvency level and having the Workers' Compensation Board taking over the Administration and collection of Assessments.