

## Documentation Requirements for Business Economic Loss Claims<sup>1</sup>

The framework detailed below describes the documentation requirements for business economic loss claims.

In order to be eligible for compensation, a business claimant must provide the following:

1. A Claim Form which the claimant (or claimant's representative) shall verify under penalties of perjury. The Claim Form shall direct the claimant to provide information, including the claimant's chosen Compensation Period and corresponding Benchmark Period<sup>2</sup> in the year(s) selected by the claimant. The claimant shall attach required documents supporting the claim. All statements made in and documents submitted with the Claim Form may be verified as judged necessary by the Claims Administrator.
2. Documents reflecting the business structure and ownership of the claimant, including but not limited to articles of incorporation, shareholder list(s), and partnership or limited partnership agreements.
3. Federal tax returns (including all schedules and attachments) for the years included in the claimant-selected Benchmark Period, 2010, and, if applicable, 2011.<sup>3</sup>
  - a) Provide the complete federal tax return and the applicable supporting documentation.
  - b) For self employed individuals, provide Form 1040, pages 1 and 2, along with Schedules C, D, E, and F and Form 1099 if applicable.
4. Monthly and annual profit and loss statements (which identify individual expense line items and revenue categories), or alternate source documents establishing monthly revenues and expenses for the claimed Benchmark Period,<sup>4</sup> 2010 and, if applicable,

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<sup>1</sup> These Documentation Requirements also apply generally to (i) start-up businesses and (ii) businesses claiming to have ceased operations due to and resulting from the DWH Spill, subject to such exclusions as may be noted in the frameworks governing compensation for such businesses. Other provisions of the settlement agreement might require additional documentation for specific business types.

<sup>2</sup> As used herein, Benchmark Period will have the meaning set forth in the Compensation Framework for Business Economic Loss Claims), and may include (i) 2009, (ii) 2008 and 2009, or (iii) 2007-2009. If the claimant selects a Benchmark Period including dates in years prior to 2009, the claimant shall provide the relevant documents for each of those years.

<sup>3</sup> Claimants who must satisfy the requirements of Sections II and III of the Causation Requirements for Business Economic Loss Claims are required to submit 2011 federal tax returns.

<sup>4</sup> If the claimant's Benchmark Period includes dates in years prior to 2009, the claimant shall provide the relevant documents for the applicable years.

2011.<sup>5</sup> Profit and loss statements shall identify the dates on which they were created. The Claims Administrator may, in his discretion, request source documents for profit and loss statements. If there is a discrepancy between amounts reflected in a tax return and comparable items reflected in a profit and loss statement for the same period, the Claims Administrator may request the claimant to provide additional information or documentation.

5. If the claimant falls within any of the specific business types listed below, the following additional documents are required for the years included in the Benchmark Period, 2010, and, if applicable, 2011:
  - a) Retail
    - i. Monthly sales and use tax returns.
  - b) Lodging (including hotels, motels, and vacation rental properties):
    - i. Lodging tax returns;
    - ii. Occupancy reports or historical rental records, on a per unit basis if available;
    - iii. Documentation to identify how the rental property is managed, such as (i) a management contract from a third-party management company or (ii) a **Sworn Written Statement** from an owner that manages its own property.
6. Additional documents may be required depending on the causation provisions the claimant is seeking to satisfy, as reflected in "Causation Requirements for Business Economic Loss Claims". These documents include, where applicable:
  - a) Documents used to satisfy the Customer Mix Tests accompanying the Modified V-Test and/or Down Only Revenue Pattern Test:
    - i. Credit card receipts, or other contemporaneously-maintained records of payment from customers;
    - ii. Customer registration logs, such as hotel registries;
    - iii. Documentation maintained in the ordinary course of business that lists customers by location and monthly sales associated with those customers;
    - iv. Business documents reflecting contemporaneous recording of receipts or invoices listing customers by location.
  - b) Documents providing contemporaneous written evidence of the cancellation of a contract as the direct result of the DWH Spill, which the claimant was not able to replace, under the same terms, or a Sworn Written Statement from an individual third party affirming that the cancellation was Spill-related. A copy of all corresponding contracts shall also be provided.

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<sup>5</sup> Claimants included in Sections II or III of the Causation Requirements for Business Economic Loss Claims are required to submit 2011 monthly profit and loss statements or alternate source documents.

- c) Specific documentation identifying factors outside the control of the claimant that prevented the recovery of revenues in 2011, such as:
    - i. The entry of a competitor in 2011;
    - ii. Bankruptcy of a significant customer;
    - iii. Nearby road closures affecting the business;
    - iv. Unanticipated interruption resulting in the closure of the business;
    - v. Product/service replacement by customer; or
    - vi. Loss of financing and/or reasonable terms of renewal.
  - d) Documents created during the period April 21, 2010 - December 31, 2010, that evidence spill-related reservation cancellations during that period that the claimant was not able to rebook under the same terms, such as letters, emails, hotel logs for the relevant time, or a Sworn Written Statement from an independent third party citing the DWH Spill as the reason for the cancellation. Written evidence of the original reservation shall also be provided.
  - e) Documents demonstrating expenses associated with purchases of seafood harvested in the Gulf of Mexico during 2009, such as historical purchase orders or invoices.
  - f) Other business documents the claimant believes establish causation pursuant to the terms of the Economic and Property Damages Settlement Agreement. Purchase orders or invoices documenting seafood purchase costs for the compensation period, and for the year 2010 or 2011 if applicable.
7. Claimant must provide a copy of any applicable federal, state, or local governmental license required to operate its business. For example, claimants shall produce the following for the Benchmark Period, 2010 and, if applicable, 2011:
- a) Real estate sales licenses
  - b) Occupancy licenses (lodging businesses, including hotels, motels, and vacation rental properties)
  - c) Business or occupational licenses
    - i. Restaurant licenses
    - ii. Bars (liquor) licenses
    - iii. Taxi/livery licenses
    - iv. Service licenses or permits
8. Claimants who have received any of the payments listed below must provide documentation of the amount of payments received:
- a) VoO payments
  - b) Payments from GCCF
  - c) Payments from BP as part of its OPA claims process.

9. Additional documentation for claimants with annual revenue of \$75,000 or less which seek to establish causation on the basis of a Causation Proxy Claimant:
  - a) Sworn Written Statement from Claimant documenting the following:
    - i. Contact information and verification of status in MDL 2179 Settlement of the Causation Proxy Claimant to be used by the claimant to satisfy causation;
    - ii. Business linkage between the claimant and the Causation Proxy Claimant; and
    - iii. Proximity of the claimant to the Causation Proxy Claimant (must be within 100 yards for urban claimants and within one-quarter mile for rural claimants).
  - b) Sworn Written Statement from Causation Proxy Claimant authorizing claimant's use of the Causation Proxy Claimant's documentation to satisfy causation.
10. Form affirming that the individual filing the claim on behalf of the business is an authorized representative of the claimant.