



Superannuation Guarantee Update

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What we are covering today



**Ali
Suleyman**

Overview of employer
superannuation
obligations

Common errors ATO
is focussing on

SG Analyser



**Elena
Bogomolova**

Consequences of
not paying on time

Concessions provided
by SG amnesty

Case study
“Disclose, or not disclose”



**Gary
Matthews**

Salary sacrificing
superannuation –
new integrity
provisions

JobKeeper and
Super Guarantee




Superannuation Guarantee

Superannuation guarantee

Employer obligations

- Must pay minimum superannuation support to employee's chosen fund
- Currently 9.5% on Ordinary Time Earnings (OTE)
- **Payments must be made by 28th day after the end of each quarter**
- Super due dates do not always correspond with BAS lodgement due dates

 **BY**
April
FOR
March quarter

 **BY**
July
FOR
June quarter

 **BY**
October
FOR
September quarter

 **BY**
January
FOR
December quarter

Payments are deemed to be made on time
when received by the fund **not when paid by employer**

What is the ATO focussing on?



Incorrectly categorising workers / service providers

Contractors
engaged wholly
or principally
for labour



Are 'ordinary hours of work' clearly defined?

Consider
Industrial
Awards, EBAs



OTE versus salary and wages?

Treatment of
allowances,
bonuses,
directors' fee,
irregular
payments and
leave loading
(SG Ruling
2009/2)



Late payments

ATO notified
2,500 businesses
in 2019

Superannuation guarantee

Consequences of not paying on time

SGC statement to report

Shortfall amount based on
total salaries and wages
not OTE

Interest at 10% p.a. calculated
from 1st day of the quarter

\$20 admin fee per employee
per quarter

Super Guarantee Charge (SGC) statement to be filed with ATO

Up to 200% penalties

SGC and penalties are non-deductible

Mitigation strategies

SGC late payment offset

Late payment re-characterised as early payments for later quarters



9	Aspirations Aspirations
3	Aspirations Aspirations
2	Office Office
1	Office Office
0	Office Office
-1	Office Office
-2	Office Office

Superannuation Guarantee Amnesty

Superannuation guarantee amnesty

Treasury Laws Amendment (Recovering Unpaid Superannuation) Act 2019



Amnesty ends six months after date of Royal Assent
7 September 2020



Exemption from admin fee, penalties
SGC payments deductible



ATO enforcement activities will be **ongoing** during the Amnesty period





Do nothing and risk future penalties (Minimum 100%) and **non-deductibility**

For quarters between
1 July 1992 and 31 March 2018

Royal Assent received on **6 March 2020**

Superannuation guarantee amnesty

Case study – “Disclose, or not disclose”

- Facts**  Employer made superannuation contributions after due date and has to lodge SGC Statements
-  Assume – **OTE** = Salary & Wages
- **SGC statements** lodged on 1 March 2020

Quarter end	Days late	Employees	Shortfall per qtr	Interest*	Admin fee
Mar 2016	5	100	\$100,000	40,000	2,000
Mar 2017	16	100	\$100,000	30,000	2,000
Mar 2018	3	100	\$100,000	20,000	2,000
Total			\$300,000	\$90,000	\$6,000

*Interest figures are rounded

EXAMPLE OF EMPLOYER EXPOSURE	SCENARIO 1	SCENARIO 2	SCENARIO 3
Super Guarantee Charge	\$396,000	\$390,000	\$396,000
	Lodge SGC statements <i>No amnesty</i>	Lodge SGC statements <i>With amnesty</i>	SGC statements not lodged
SGC payable after offset of \$300,000	\$96,000	\$90,000	\$96,000
Penalty	Nil	Nil	\$396,000
Additional cost / (saving) due to denied deduction	\$118,800	(\$117,000)* * Assumes deduction was not claimed in prior periods	\$237,600
Total cost to business after tax	\$214,800	(\$27,000)	\$729,600

Quarter end	Days late	Employees	Shortfall per qtr	Interest*	Admin fee
Mar 2016	5	100	\$100,000	40,000	2,000
Mar 2017	16	100	\$100,000	30,000	2,000
Mar 2018	3	100	\$100,000	20,000	2,000
Total			\$300,000	\$90,000	\$6,000

*Interest figures are rounded

Superannuation guarantee review

What should employers check?



Timeliness of superannuation payments



Payroll system to **ensure SG contributions based on OTE** at the applicable rate, currently 9.5%



Compliance with relevant Awards and EBAs



Review all individual contractors to determine whether they may be deemed to be employees

A dispute with an individual who believes they should have received superannuation could instigate a full ATO review!



Salary sacrificing superannuation *New integrity provisions*

Salary sacrificing

Treasury Laws Amendment (2019 Tax Integrity and Other Measures No. 1) Act 2019

Applies to effective salary sacrifice arrangements from 1 January 2020



Employee salary sacrifice superannuation arrangements cannot be used to reduce an employer's SG obligations



Salary sacrifice amounts **do not count** towards an employer's SG obligations



SG is **calculated on** the employee's Ordinary Time Earnings (OTE) before reductions for salary sacrifice superannuation but after reductions for other benefits (e.g. cars, car parking, other expenses)

Salary sacrificing

Treasury Laws Amendment (2019 Tax Integrity and Other Measures No. 1) Act 2019

	Old law	New law
Total package (incl super)	\$116,500	\$116,500
Sacrificed car Novated lease pre-tax payments	\$4,000	\$4,000
Sacrificed super	\$3,000	\$3,000
Balance	\$109,500	\$109,500
Employer super	\$9,500 $((\$109,500/1.095)*0.095)$	\$9,760 $((\$112,500/1.095)*0.095)$ – i.e. add back sacrificed super but not car
Taxable salary	\$100,000	\$99,740



Job Keeper and Superannuation Guarantee



JobKeeper payments

Payments to employees for services rendered are subject to SG even if 'subsidised' by JobKeeper. However, top-up payments are not subject to SG.



JobKeeper payments

Superannuation Guarantee

Where an employee is actually earning < \$1,500



Any JobKeeper **top-up** payments are
not OTE and not subject to SG

JobKeeper payments

Example 1 – employee earns \$700 in a fortnight



Ben earns
\$700 in a fortnight
for hours actually worked



His employer pays
\$800 top-up
to qualify for JobKeeper

His employer must pay SG on the \$700 Ben earns.
However, his employer is not required to pay SG on the top-up \$800

JobKeeper payments

Superannuation Guarantee

Where an employee is actually earning < **\$450 a month**



No SG obligation arises for employer due to the general exclusion and any **top-up** payment by employer under the JobKeeper Scheme is also not subject to SG

JobKeeper payments

Example 2 – employee earns \$400 in a calendar month



Grace earns
\$200 in a fortnight
for actual work performed



Her employer pays
top-up of \$1,300 in a fortnight
to qualify for JobKeeper

Grace's ordinary earnings are under \$450 in a calendar month,
therefore not subject to SG and the **top-up amount she receives
under JobKeeper** is also **not subject to SG**



SG Analyser

SG Analyser – insights it provides

Automating superannuation calculations



Effect of neglecting
pay items /
components as
superable items



**Risks and damage
to reputation**
associated with
the timing of your
organisation's
superannuation
payments



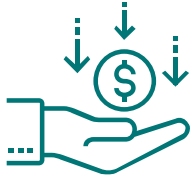
**Cost savings
associated** with
voluntary disclosure
during the Amnesty
period



**Extra cost savings
associated** with
alternative SG
calculation methods

SG Analyser – benefits for you

Automating superannuation calculations



Robust analytical tool which provides standardised and reliable calculations of SGC

Provides efficiencies in remediation actions, allowing employers to meet Amnesty deadline

Allows efficient generation of SGC statements for lodgement with the ATO

Provides reports and visualisations that allows greater insight into the cause of any identified issues on a per employee basis

What we can do for you



Complete a **thorough review** of your payroll and identify non-compliance



Calculate the SGC on **under / late payments** using our analyser



Increased efficiencies in gathering data and processing large payrolls to free up your resources



Correct any non-compliance via preparation and lodgement of the SGC Statements



Identify and correct causes of non compliance

Meet the SG Amnesty deadline
to obtain concessions offered

Contact us



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