Should You Pay **Superannuation**

Are you employing people? Yes, then you may be liable to pay superannuation on their behalf!

Generally, if you pay an employee $450 or more (before tax) in a calendar month, you have to pay super guarantee (SG) on top of their wages.

If your employee is under 18 or is a private or domestic worker, for example, a nanny, they must also work for more than 30 hours per week to qualify.

You may have to pay super for some contractors, even if they quote an Australian business number (ABN). (This will be explained in further detail later in this brochure).

You must pay super no matter whether the employee:

- is full-time, part-time or casual,
- receives a super pension or annuity while still working – including those who qualify for the transition-toretirement measure,
- is a temporary resident – when they leave Australia they can claim the payments you made through a departing Australia superannuation payment,
- is a company director,
- is a family member working in your business – provided they are eligible for SG.

Let's have a look at some of the more common types of workers.

1. Domestic workers

If you engage someone to do work of a domestic or private nature for 30 hours or more per week, and pay them $450 or more (before tax) in a calendar month, you must pay SG for them.

"Domestic or private" means work relating personally to you (not to a business of yours), or work relating to your home, household affairs or family. Examples of this would include a nanny, housekeeper or carer.

Employees not eligible for super

There are certain circumstances where superannuation is not required to be paid. You don't have to pay SG for:

- a non-resident employee you pay for work they do outside Australia,
- some foreign executives who hold certain visas or entry permits,
- employees paid under the Community Development Employment Program,
- members of the army, naval or air force reserve for work carried out in that role,
- employees temporarily working in Australia who are covered by a bilateral super agreement. You must keep a copy of the employee's certificate of coverage to verify the exemption.

2. Employees working overseas

If you send an Australian employee to work temporarily in another country, you must continue to pay super contributions in Australia for them.

The other country may require you or your employee to pay super (or equivalent) there as well. But Australia has bilateral agreements with some countries so that you don't have to pay it there – provided you continue to pay compulsory super contributions for the employee in Australia. To gain exemption from the super payment in the other country, you need to show the authorities in the other country a certificate of coverage. This will need to be obtained from the ATO.

Example: Australian employee working in the US

Jack is an Australian resident working in Australia for an Australian employer. His employer sends him to work in the United States for one year. Under US law, Jack and his employer must pay compulsory social security (covering super) contributions. In addition, Jack's employer must still pay SG for Jack in Australia.

The agreement between Australia and the US means Jack and his employer don't need to pay contributions under US law. Jack's employer must request a certificate of coverage from the ATO to ensure the US exemption applies. Jack's employer will continue to make super contributions for Jack in Australia.

Similarly, a US employee sent to work temporarily in Australia would not have to pay super under Australia's SG laws, as they and their employer would pay contributions solely under the US system.

3. Contractors

Contractors paid mainly for their labour are employees for superannuation guarantee purposes. This is the case even if the contractor quotes an Australian Business Number (ABN).

You must make super contributions for these individuals if you pay them:

- under a verbal or written contract that is wholly or principally for their labour – that is, more than half the dollar value of the contract is for their labour,
- for their personal labour and skills – which may include physical labour, mental effort or artistic effort – and not to achieve a result
- to perform the contract work personally – that is, they must not delegate.

If you make a contract with someone other than the person who'll provide the labour – for example, with a company, trust or a partnership – you don't pay that person super.

Example: Contractor, not employee
Harry's Hobby Shop wants to paint their new shop and they contract Pete's Paints for the job. The entire job is completed by one painter from Pete's Paints but that does not make the painter an employee of Harry's Hobby Shop; the contract is between Harry's Hobby Shop and Pete's Paints.

Harry's Hobby Shop paid Pete's Paints to achieve a result. Pete's Paints may have SG obligations for the painter.

a) Example: Employee, not contractor
David's Caravan Park has a contract with Amanda, a freelance administrative assistant, to answer phones and do administrative work for 15 hours per week. The contract specifies that Amanda herself must perform the work. Amanda has an ABN and invoices David weekly for the hours she works. Amanda is considered David's employee for SG purposes because:

- Her contract is wholly for the labour and skills Amanda provides,
- She performs the work personally,
- She is paid according to the number of hours worked.

How much super to pay for contractors
The minimum super amount you have to pay is 9.50% of each worker's ordinary time earnings (OTE).

Camden Professionals Tip
If the values of the various parts of the contract aren't detailed in the contract, the ATO will accept their market values and take normal industry practices into consideration. If you can't work out the labour portion of the contract, you can use a reasonable market value of the labour component.

When you pay super for a contractor employee, you must calculate the minimum super amount on the labour component of the contract.

Paying an additional 9.50% wages on top of your contractor's usual pay does not count as a super contribution. To meet your super obligations for your contractor employees, you must pay at least the minimum super guarantee contribution (9.50%) to their super fund account each quarter.

Camden Professionals Tip
You may want to make personal contributions to your superannuation fund as a way of saving for your retirement. A personal tax deduction may also be available in certain circumstances.

From 1 July 2017, regardless of whether you're self-employed or not, most people will be able to claim a full deduction for contributions they make to their super until they turn 75 years old. Those aged 65 to 74 will still need to meet the work test in order to be eligible to make a contribution and claim a tax deduction. Keep in mind that contributions you make may attract extra tax if they exceed the contribution limits for that year.

4. The self-employed

If you're a sole trader or in a partnership, you generally don't have to make super guarantee (SG) payments for yourself – this is optional.

You may also be eligible for the super co-contribution payment. This helps eligible low-to-middle income earners save for their retirement. If you're eligible and you make personal super contributions, the government will match your contribution up to certain limits, unless you have claimed your contribution as a tax deduction.

Beware
Make sure your super fund has your tax file number (TFN).

If it doesn't:

- your super contributions will be taxed an additional 34%,
- your fund won't be able to accept personal contributions from you, which means you may miss out on any super co-contribution you're eligible for,
- it will be harder to keep track of your super.

Being Financially Sorted.

Superannuation is a very complex area and its imperative that you get it right. The consequences for not doing so can be quite harsh.

Retirement may be almost upon you or could be some way off, but saving for your later years is important.

It's just as an important, as an employer, that you get it right when determining whether you must pay superannuation on behalf of your employees.

We hope that this summary gives you guidance on whether you have a superannuation guarantee liability.

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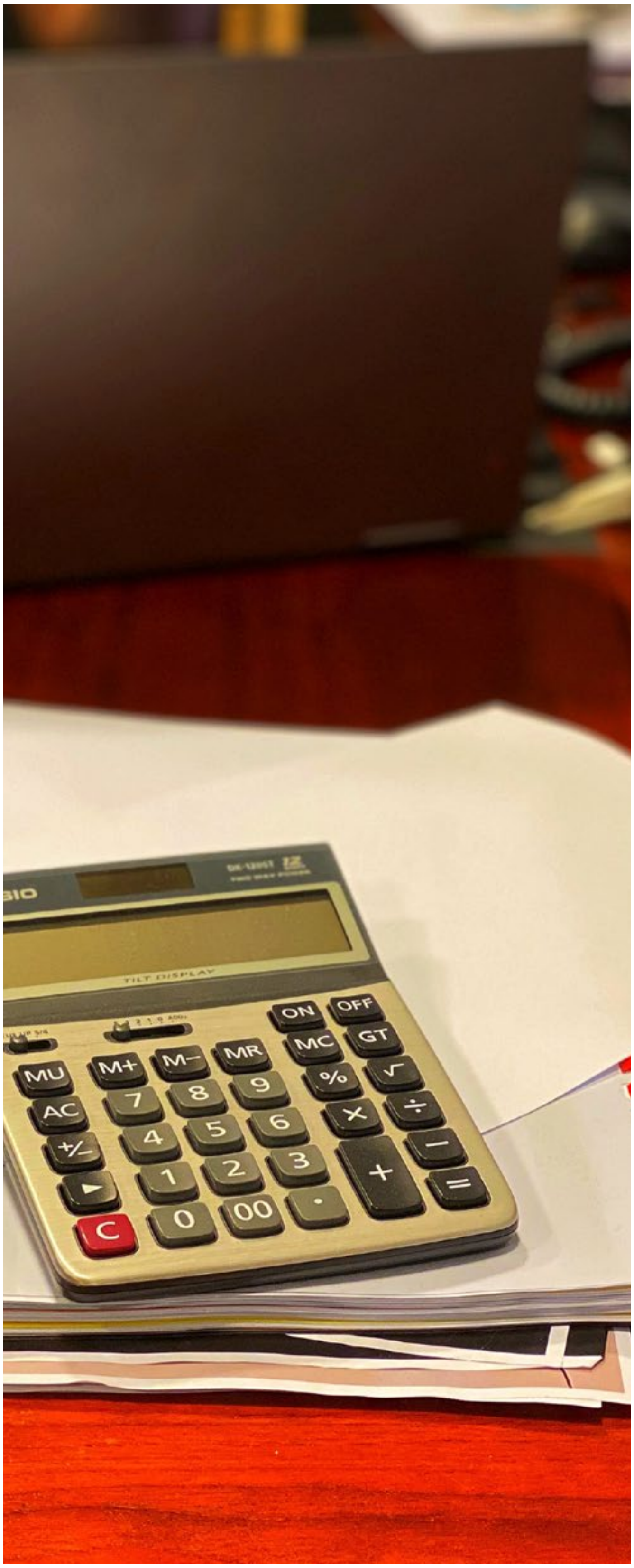
If any products are discussed, you should obtain a Product Disclosure Statement relating to the products and consider its contents before making any decisions.It is recommended to seek advice from a qualified professional relevant to your particular needs or interests. (For instance, Tax Advice from a Tax Agent, Financial Advice from a Licensed Financial Adviser and so on and so forth).



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