



**Australian Government**  
**Australian Taxation Office**

## Guide to superannuation for employers

- <http://www.ato.gov.au/Business/Employers-super/>
- Last modified: 01 Jul 2013
- QC 33737

### Overview

You must make super contributions for an employee if you're considered an employer for super guarantee purposes and your employee is entitled to the super guarantee.

[Working out if you have to pay super <http://atogov.prod.atonet.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/#Working\\_out\\_if\\_you\\_have\\_to\\_pay\\_super>](http://atogov.prod.atonet.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/#Working_out_if_you_have_to_pay_super)

You also have to pay super for contractors if the contract is wholly or principally for their labour, and for employees who are temporary residents of Australia.

If you're a sole trader or partner in a partnership you don't have to pay super for yourself, but you can make super contributions as a way of saving for your retirement.

#### Setting up super for a worker

You must pay contributions into a complying super fund or retirement savings account (RSA) and pass on your employee's tax file number (TFN) to their super fund where you are required to do so. Your eligible employees may be entitled to choose their super fund – if so, you must provide them with a form enabling them to make their choice.

#### How much to pay and when to pay



If you are calculating super guarantee for pay periods that cross over 1 July 2013 you should note that the SG rise will be compulsory for all salary and wage payments made after 30 June 2013, as contributions are calculated based on the date you pay salary or wages to your employees.

From 1 July 2014, the super guarantee rate will increase to 9.50% and will continue to increase in small increments until it reaches 12% on 1 July 2019.



For help working out how and when to apply the SG rate increase, refer to

[Super reform - questions and answers for employers](#)

### What you must do if you haven't met your obligations

If you don't pay the minimum amount into the correct fund by the due date, you'll have to lodge a ) and pay us the superannuation guarantee charge. This charge is the amount of shortfall super that needs to be paid for the employee, plus interest, plus an administration fee.

### Records you need to keep

You must keep records that show:

- the amount of super you paid for each employee and how it was calculated
- that you have offered your eligible employees a choice of super fund
- how you calculated any reportable employer super contributions.



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## Working out if you have to pay super

- <http://www.ato.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/>
- Last modified: 12 Apr 2013
- QC 33749

You must make super contributions for an employee if you're considered an employer for super guarantee purposes and your employee is entitled to the super guarantee.

### Working out if you're an employer for super guarantee purposes

You're an employer for super guarantee purposes if you employ a person under a verbal or written employment contract on a full-time, part-time or casual basis.

### Employee eligibility

Generally, you have to pay super for an employee if they're 18 years or over and you pay them \$450 or more (before tax) in salary or wages in a month. It doesn't matter whether the employee is full time, part time or casual.

Employees who are under 18 years old must meet the above conditions and work at least 30 hours per week to be entitled to super guarantee.



You can use the [Superannuation guarantee eligibility decision tool](#) to work out if you must make super contributions for your workers.

## Super for the self-employed

If you're a sole trader or a partner in a partnership you don't have to make super contributions to a super fund for yourself, but you might want to make super contributions anyway to save for your retirement. You may be able to claim a full deduction for your super contributions and may be eligible for matching co-contributions from the government.

### **Contractors**

If you pay an individual under a contract that is wholly or principally for their labour, and you pay them for hours worked rather than to achieve a result, you have to pay super contributions for them.



You can use the [Employee/contractor decision tool](#) to work out whether your new or existing workers are employees for tax and super purposes.

### **Temporary resident employees**

Temporary Australian residents are entitled to super guarantee contributions under the same criteria as resident employees.

### **Employees working overseas**

If you send an employee to work temporarily in another country you must continue to pay super contributions for the employee in Australia. If Australia has a bilateral super agreement with the other country, you can apply for a 'certificate of coverage' so you won't have to pay super in the other country as well.



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## Working out if you're an employer for super guarantee purposes

- <http://www.ato.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/Working-out-if-you-re-an-employer-for-super-guarantee-purposes/>
- Last modified: 12 Apr 2013
- QC 33762

You're an employer for super guarantee purposes if you employ a person under a verbal or written employment contract on a full-time, part-time or casual basis.

You may also be considered an employer if you:

- make payments to a person for labour under a contract, even if the person quotes an ABN
- are responsible for paying salary or wages
- have legal control over the worker (such as the power to dismiss them).

You're also considered an employer and have to pay super for your eligible employees if you're:

- a non-resident employer who has employees working in Australia
- a government organisation, statutory authority or municipal body
- a tax-exempt organisation
- a family company or trust paying salary or wages to family members (including yourself) who work in the business.



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## Temporary resident employees

- <http://www.ato.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/Temporary-resident-employees/>
- Last modified: 12 Apr 2013
- QC 33751

If you employ temporary Australian residents who are eligible for the super guarantee, you must make super contributions for them.

When your temporary resident employees leave Australia, they can claim the payments you made into their super fund or retirement savings account (RSA). This payment is called the departing Australia superannuation payment.

Since 18 December 2008, changes have applied to unclaimed super for temporary residents. However, there have been no changes to your obligations as an employer. You still need to continue to pay super guarantee for eligible temporary residents, either to your temporary resident's chosen super fund or your employer-nominated super fund.

For the temporary residents, the main changes are:

- where it's been at least six months since the temporary resident has both left Australia and their visa has expired or been cancelled, the ATO will notify their super fund that it will need to transfer the temporary resident's unclaimed super to us
- new withholding tax rates apply to departing Australia superannuation payments, where the application for payment is made on or after 1 April 2009.

After leaving Australia, eligible temporary residents can still claim their super at any time from:

- their super fund (if the super fund has yet to transfer the unclaimed super to us)
- the ATO (if we hold the temporary resident's super money).



Permanent residents, Australian and New Zealand citizens are not eligible to receive a departing Australia superannuation payment.

 For more information, refer to [Applying for a Departing Australia superannuation payment](#).

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## Employee eligibility

- <http://www.ato.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/Employee-eligibility/>
- Last modified: 06 Feb 2014
- QC 33853

For super guarantee (SG) purposes, an employee is generally an individual who receives payment in the form of salary or wages in return for their labour or services.

Generally, you have to pay SG for an employee who:

- is 18 years old or over, and
- you pay \$450 or more (before tax) in salary or wages in a calendar month.

This applies whether the employee works full time, part time, or on a casual basis.

You'll also have to pay SG for an employee who is under 18 years old if:

- you pay them \$450 or more (before tax) in salary or wages in a calendar month, and
- they work for more than 30 hours in a week.

SG is also payable for:

- eligible employees who receive a super pension or annuity while still working. This includes employees who qualify through the transition to retirement measure (Transition to retirement allows people who reach their preservation age to access their super benefits without having to retire or leave their job.)
- directors of a company – generally, this means that directors who receive salary, wages or director's fees are entitled to receive SG contributions from the company, which is their employer for SG purposes
- family members working in your business if they are eligible employees
- employees you pay to do work of a domestic or private nature for more than 30 hours per week. A person is paid to do work of a 'domestic or private nature' if you engage them to perform work relating personally to you (not to a business of yours), or work relating to your home, household affairs or family organisation

For example, if you are a recipient of support under the National Disability Insurance Scheme (NDIS), you may have an obligation to pay SG for carers or other domestic help you engage. Under the NDIS, participants have the option to either self manage their plan, or have it managed on their behalf by a nominee, registered plan management provider, or the NDIS Agency.

Participants who choose to self manage or appoint a nominee may use the support funds received under their plan to directly engage the services of a carer or other domestic help. Where you engage a person to perform work of this nature for more than 30 hours per week and pay them \$450 or more (before tax) in a calendar month, you may need to make SG payments for them.



For information about the announced changes to super from 1 July 2013, refer to [Introducing your super - employers](#)



You can use the [Superannuation guarantee eligibility decision tool](#) to work out if you need to make super contributions for your workers.

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## Employees who aren't eligible to receive SG payments

You don't have to pay SG for the following employees:

- employees you pay less than \$450 (before tax) in salary or wages in a calendar month – you must still pay super contributions for any month that you pay your employee \$450 or more
- employees under 18 years old working 30 hours or less per week
- employees earning above the maximum super contribution base – you don't have to pay super on that portion of their income above the maximum super contribution base; visit [Key superannuation rates and thresholds](#) for the current quarterly income thresholds
- non-resident employees you pay for work done outside Australia
- some foreign executives who hold certain visas or entry permits under the migration regulations (for more information, phone **13 10 20**)
- workers you pay to do work of a domestic or private nature (relating personally to you) for no more than 30 hours per week – for example, a part-time nanny or housekeeper
- employees who receive payments under the Community Development Employment Program
- members of the army, navy or air force reserve for work carried out in that role (tax-exempt pay and allowances of members of the reserve forces (other than those in continuous full-time service) is not to be taken into account for SG purposes.)
- eligible employees who made a choice, prior to the abolition of reasonable benefit limits, to not receive employer super contributions because their accumulated super benefits exceeded the pension reasonable benefit limit
- 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.

If you're a non-resident employer, you don't have to pay SG for resident employees for work they do outside Australia.



For information about the announced changes to super from 1 July 2013, refer to [Introducing your super - employers](#)

## Employees who aren't eligible for super

- <http://www.ato.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/Employee-eligibility/Employees-who-aren-t-eligible-for-super/>
- Last modified: 01 Jul 2013
- QC 33851

You don't have to pay super contributions for the following employees:

- employees you pay less than \$450 (before tax) in salary or wages in a month - you must still pay super contributions for any month that you pay your employee \$450 or more
- employees under 18 years old working 30 hours or less per week
- employees earning above the maximum super contribution base - you don't have to pay super on that portion of their income above the maximum super contribution base; visit [Key superannuation rates and thresholds](#) for the current quarterly income thresholds
- non-resident employees you pay for work done outside Australia
- some foreign executives who hold certain visas or entry permits under the migration regulations (for more information, phone **13 10 20**)
- employees you pay to do work of a domestic or private nature for no more than 30 hours per week - for example, a part-time nanny or housekeeper
- employees who receive payments under the Community Development Employment Program
- members of the army, navy or air force reserve (the armed forces don't have to pay super contributions for reserve members)
- eligible employees who made a choice, prior to the abolition of reasonable benefit limits, to not receive employer super contributions because their accumulated super benefits exceeded the pension reasonable benefit limit
- 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.

If you're a non-resident employer, you don't have to pay super contributions for resident employees for work they do outside Australia.



For information about the announced changes to super from 1 July 2013, refer to [Introducing your super - employers](#).

## Super for the self-employed

- <http://www.ato.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/Super-for-the-self-employed/>
- Last modified: 12 Apr 2013
- QC 33761

If you're a sole trader or a partner in a partnership, you don't have to make super contributions to a super fund for yourself. However, you may want to consider super as a way of saving for your retirement.

Most self-employed people can claim a full deduction for contributions they make to their super until age 75. Keep in mind that contributions you make may be subject to extra tax if they exceed the contributions limit for that year.

You may also be eligible for the super co-contribution payment. The super co-contribution 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 with a co-contribution up to certain limits.



For more information about super co-contributions, refer to [Super co-contribution](#).

Make sure your super fund has your TFN, otherwise:

- your super contributions will be taxed an additional 31.5%
- 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.



From 1 July 2011, super funds can use your TFN to locate your super accounts, making it easier for you to be reunited with your super, whether it is sitting in a lost account or in multiple accounts across various funds.



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## Contractors

- <http://www.ato.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/Contractors/>
- Last modified: 12 Apr 2013
- QC 33856

## **Eligibility of contractors for super**

If you pay individuals under a contract that is wholly or principally for their labour, you have to make super contributions for them, even if they quote their ABN (Australian business number).

## **How much to pay contractors**

You work out how much to pay based on the labour component of the contract.



To work out if you have to pay super for a contractor:

- first, use the [Employee/contractor decision tool](#) to work out if the contractor is an employee for super purposes
- if the contractor is an employee for super purposes, use the [Superannuation guarantee eligibility decision tool](#) to work out if they're entitled to super guarantee contributions.



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## Eligibility of contractors for super

- <http://www.ato.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/Contractors/Eligibility-of-contractors-for-super/>
- Last modified: 12 Apr 2013
- QC 33854

Generally, a contract is principally for labour if more than half of the dollar value of the contract is for a person's labour. This person is considered your employee for super guarantee purposes.

An individual's labour may include physical labour, mental effort or artistic effort. A contract may be considered 'wholly or principally for labour' if the individual:

- is paid wholly or principally for their personal labour and skills
- must perform the contract work personally and is not able to delegate
- is paid for hours worked, rather than to achieve a result.

A contract for labour can be made either verbally or in writing.

If you make a contract with someone other than the person who will actually be providing the labour, there is no employer-employee relationship.

A contract is not for the labour of the individuals if you make a contract with a company, trust or a partnership.

### **Example**

Harry's Hobby Shop makes a contract with Pete's Paints to paint their new shop. The entire job is completed by one painter from Pete's Paints. This painter is not an employee of Harry's Hobby Shop for super guarantee purposes. The contract is between Harry's Hobby Shop and Pete's Paints.

Harry's Hobby Shop has no control over which particular individuals do the work and paid Pete's Paints to achieve a result. Pete's Paints may have super guarantee obligations for the painter.

### Example

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 super guarantee purposes because:

- their contract is wholly for the labour and skills Amanda provides as an administrative assistant
- she performs the work personally
- she is paid according to the number of hours worked.



To help you determine if your contractor is an employee for super purposes, refer to [Superannuation Guarantee Ruling SGR 2005/1 Superannuation guarantee: Who is an employee?](#)

<http://law.ato.gov.au/view.htm?DocID=SGR/SGR20051/NAT/ATO/00001&PiT=99991231235958>



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## How much to pay contractors

- <http://www.ato.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/Contractors/How-much-to-pay-contractors/>
- Last modified: 12 Apr 2013
- QC 33758

When you pay super for a contractor employee, the minimum super amount should be calculated on the labour component of the contract.

If the values of the various parts of the contract aren't detailed in the contract, we'll 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.



Paying an additional 9.25% 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 should pay at least the minimum 9.25% super guarantee contribution to their super fund account each quarter.



For more information, refer to [Super for contractors](#).



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## Employees working overseas

- <http://www.ato.gov.au/Business/Employers-super/Working-out-if-you-have-to-pay-super/Employees-working-overseas/>
- Last modified: 12 Apr 2013
- QC 33735

Generally, if you are an Australian employer and you send an Australian employee to work temporarily in another country you must continue to pay super contributions for the employee in Australia. You or your employee may also be required to pay super (or equivalent) contributions under the law of the other country for the same work. This is called 'double super coverage'.

Australia has international agreements with a number of countries to address this issue. Under the agreements, you don't have to pay super (or equivalent) contributions in the other country provided you continue to pay compulsory super contributions for the employee in Australia and have a certificate of coverage to show the authorities in the other country.

You must apply to us for a certificate of coverage for the employee. Where possible, make the application before your employee starts work in the other country.



You can [apply online](#) for a certificate of coverage or phone us on **13 10 20**.

For more information, including a list of countries with which Australia has agreements on double super coverage, refer to [Bilateral agreements - what are my super obligations when my employee is working overseas?](#)

## Example

Jack is an Australian resident working in Australia for an Australian employer. He is then sent by his employer to work in the United States for one year. Jack and his employer must pay compulsory social security (covering super) contributions under US law. In addition, Jack's employer must still pay super contributions 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 us 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 super guarantee legislation, as they and their employer would pay contributions solely under the US system.



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## Setting up super for a worker

- <http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/>
- Last modified: 02 Sep 2013
- QC 33755



### Give your new starters a helping hand

We've got a product that can help your new employees understand superannuation. It explains some of the paperwork they're faced with when they start a job.

- Download **[Super - your money, your future](#)** (PDF, 675KB), and either print it out and give it to them, or show it to them on-screen as part of your induction training.
- Point them to [www.ato.gov.au/yourfuture](http://www.ato.gov.au/yourfuture) where they can download this PDF themselves, and pick up a few other tips too.
- It's also available through our [online ordering service](#). Log-in and search for 'NAT 74373'.

**[Offering your employees a choice of super fund](http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Offering-your-employees-a-choice-of-super-fund/)** <<http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Offering-your-employees-a-choice-of-super-fund/>>

Many employees are entitled to choose the super fund their employer super contributions are paid into. You need to:

- identify your eligible employees
- provide a *Standard choice form* to employees who are eligible to choose a super fund
- nominate a default fund
- act on your employee's choice.

### **Where to pay super contributions**

To meet your super obligations, you must pay your contributions to a complying super fund or retirement savings account (RSA). You can check that a super fund is complying by using the online Super Funds Lookup, or by getting confirmation from the fund's trustee.

If you have award obligations to make super contributions into a specified fund or RSA, these contributions will usually count towards meeting your super guarantee obligations.

If you have fewer than 20 employees, you may also be eligible to use the free Small Business Superannuation Clearing House service administered by the Department of Human Services.

### **Tax file numbers** <<http://ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Tax-file-numbers/>>

If a new employee tells you their tax file number (TFN) by completing a *Tax file number declaration* form, you need to pass their TFN on to their super fund. There are penalties if you don't.

### **Salary sacrificing super**

You can arrange with an employee to sacrifice part of their salary or wages into super.

## Offering your employees a choice of super fund

- <http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Offering-your-employees-a-choice-of-super-fund/>
- Last modified: 12 Apr 2013
- QC 33746

Many employees have the option to choose the super fund that you pay their super into.

To meet your obligations there are three steps you must follow:

### **Step 1: Identify your new eligible employees**

Whether an employee is eligible to choose their super fund generally depends on the type of award or industrial agreement that you employ them under.

### **Step 2: Provide a Standard choice form to employees who are eligible to choose a super fund**

The employee can use the form to choose a super fund or accept your nominated super fund.

### **Step 3: Act on your employee's choice**

Arrange to pay super contributions into your employee's chosen fund. If they haven't chosen a fund, begin paying super contributions for the employee into your nominated fund.



## Step 1: Identify your new eligible employees

- <http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Offering-your-employees-a-choice-of-super-fund/Step-1--Identify-your-new-eligible-employees/>
- Last modified: 12 Apr 2013
- QC 33756

When you employ new staff, you must check whether they're eligible to choose a super fund. This generally depends on the type of award or industrial agreement you employ them under.

If your new employees are not eligible to choose a super fund, you don't have any further choice of super fund obligations.

### Who is eligible to choose a super fund?

Your employee is entitled to choose their super fund if they are:

- employed under a federal award
- employed under a former state award, now known as a notional agreement preserving state award (NAPSA)
- employed under another award or industrial agreement that does not require super contributions
- not employed under any state award or industrial agreement (including contractors who are regarded as eligible employees for super purposes).

### Who is not eligible to choose a super fund?

Your employee is not entitled to choose their super fund if you're already paying super contributions for them under or in accordance with:

- a state industrial award
- a preserved state agreement
- a federal industrial agreement such as
  - a collective agreement
  - a pre-reform certified agreement (CA)
  - an old industrial relations (IR) agreement
  - an individual transitional employment agreement (ITEA)
  - a workplace determination
  - an enterprise agreement
- an award or agreement that stipulates a super fund that contributions are to be paid to.

 If you're not sure what, if any, award or industrial agreement covers your employee:

- visit the Fair Work website at [www.fairwork.gov.au](http://www.fairwork.gov.au) <<http://www.fairwork.gov.au/Pages/default.aspx>>
- phone the workplace relations department in your state or territory
- check with your employer association.

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## Step 2: Provide a Standard choice form to employees who are eligible to choose a super fund

- <http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Offering-your-employees-a-choice-of-super-fund/Step-2--Provide-a-Standard-choice-form-to-employees-who-are-eligible-to-choose-a-super-fund/>
- Last modified: 12 Apr 2013
- QC 33747

If you have a new employee who is eligible to choose a super fund, you must provide them with a *Standard choice form*. You must provide this within 28 days of the day they start working for you, unless, within that time, the employee provides you with details of their chosen super fund.

For an existing eligible employee, you must provide a *Standard choice form* within 28 days if they give you a written request for a form. An employee can choose a fund as often as they want to, but you only have to accept one choice every 12 months.

Complete section B of the *Standard choice form* before you give the form to your eligible employee. Section B includes details of your nominated super fund (also known as your default fund).

If your employee does not choose a fund, you must pay the super contributions for that employee into the fund you've nominated.

You may like to consider providing a *Standard choice form* to your new eligible employees as part of their letter of engagement or on the first day they start work with you.

You need to keep a copy of the completed *Standard choice form* for your own records for five years. You don't have to send a copy to us or to your employee's chosen super fund.

 You can download a copy of our [Standard choice form](#) (NAT 13080).

The *Standard choice form* is a form approved by us. You don't have to use it - you can use an alternative document - but your document must cover all the information contained on the *Standard choice form*.

## Other times you need to provide a Standard choice form

You also have to provide a *Standard choice form* within 28 days if:

- you're unable to contribute to an employee's chosen fund or it's no longer a complying fund
- you change your employer-nominated fund and you're not paying into a chosen fund for the employee.



### **Include your employee's TFN on the form**

Make sure the *Standard choice form* includes your new employee's TFN, so any contributions you pay aren't subject to additional tax of 31.5%.

If the form doesn't contain your employee's TFN, it's a good idea to let your employee know that their super fund will be liable to pay extra income tax on certain contributions made to their account. However, an employee is not compelled to supply a TFN and not doing so doesn't invalidate their choice. If a current employee has not given you a TFN declaration since 1 July 2007, they can complete an *Authority to provide your tax file number to your super fund* to give you authority to pass their TFN to their super fund. A fund will not be able to accept any of the employee's personal contributions if the employee has not quoted a TFN to them.



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## Step 3: Act on your employee's choice

- <http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Offering-your-employees-a-choice-of-super-fund/Step-3--Act-on-your-employee-s-choice/>
- Last modified: 12 Apr 2013
- QC 33754

Once an eligible employee chooses a super fund, you have two months to arrange to pay contributions into that fund.

If you've provided a *Standard choice form* to your employee and they haven't chosen a fund, or you haven't accepted their choice of fund because they haven't provided all the required information, you must start paying super contributions for your employee to your nominated fund to ensure you continue to meet your super obligations.

### **Employer-nominated super funds (default funds)**

Your nominated fund must be a complying super fund and offer a certain minimum level of life insurance. This is the fund you pay contributions into if your employee doesn't choose a fund.

### **Giving your employees information and advice**

You can explain the process of choosing a super fund to your employees but you can't advise them about which fund they should choose or how much they should contribute. To provide financial advice to your employees you have to be a licensed adviser.

### **What happens if you don't meet your choice of fund obligations**

You may be liable for a 'choice liability' (part of the superannuation guarantee charge) if you don't give your eligible employees a *Standard choice form* as required or fail to pay super contributions to their chosen complying fund.



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## Employer-nominated super funds (default funds)

- [http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Offering-your-employees-a-choice-of-super-fund/Step-3--Act-on-your-employee-s-choice/Employer-nominated-super-funds-\(default-funds\)/](http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Offering-your-employees-a-choice-of-super-fund/Step-3--Act-on-your-employee-s-choice/Employer-nominated-super-funds-(default-funds)/)
- Last modified: 12 Apr 2013
- QC 33736

When you offer your employee a choice of super fund, you must tell them the name of the fund you will pay their super to if they don't choose a fund. This is referred to as your employer-nominated super fund (or default fund). You provide this information to your employees by completing section B of the *Standard choice form*.

The super fund you choose must:

- be a complying fund
- offer a minimum level of life insurance, as set out in the regulations (with some exceptions).

To make sure your nominated fund meets these requirements, check with the trustee or an authorised representative of the fund.



You can check our register of complying super funds by visiting [www.superfundlookup.gov.au](http://www.superfundlookup.gov.au)  
<<http://www.superfundlookup.gov.au/>>



Some super funds may ask that you become a 'participating employer' before you can pay contributions to them.

Being a participating employer may mean you have to make super payments more regularly - such as monthly, instead of quarterly. If you don't want to become a participating employer, then discuss this with your employee's chosen super fund to find out how best to make super contributions on your employee's behalf.

If you agree to become a participating employer, complete all the necessary agreements before you start making payments.



It's illegal for a super fund to give you benefits - for example, a free holiday - as an incentive to use their fund as your nominated fund. However, it's not illegal for a super fund to give benefits to your employees - such as financial literacy seminars or preferential death benefits - as an incentive to use their fund as your employer-nominated fund.

## Insurance requirements

Employer-nominated super funds - also known as default funds - must offer minimum levels of life insurance death cover to members. This minimum level must include at least one of the following:

- be at a premium of at least \$0.50 per week for those under 56 years old
- have at least the level of insurance cover shown in the following table
- where the member is a defined benefit member of a defined benefit scheme, have a death benefit with a future service component at least equivalent to the cover in the following table.

Age range	Minimum level of death cover
0-19	Nil
20 to 34	\$50,000

35 to 39	\$35,000
40 to 44	\$20,000
45 to 49	\$14,000
50 to 55	\$7,000
56+	Nil

There are some instances where your super fund doesn't need to meet the life insurance requirements - for example, if you:

- are making contributions under a federal award or into an RSA (retirement savings account)
- arrange insurance either with another super fund or with an insurance provider, and it meets the requirements
- can't obtain insurance from the fund for a particular employee due to the employee's health, occupation (for example, a high-risk occupation) or hours worked (for example, some casuals). In these circumstances you can still contribute to the fund for the employee.



For more information visit:

- [www.superreview.com.au](http://www.superreview.com.au) <<http://www.superreview.com.au/>> to obtain the contact details of your nominated fund to make sure that it is offering life insurance - most industry and retail funds and master trusts provide adequate insurance options
- [www.superfundlookup.gov.au](http://www.superfundlookup.gov.au) <<http://www.superfundlookup.gov.au/>> to check that your fund is a complying super fund.

## Giving your employees information and advice

- <http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Offering-your-employees-a-choice-of-super-fund/Step-3--Act-on-your-employee-s-choice/Giving-your-employees-information-and-advice/>
- Last modified: 12 Apr 2013
- QC 33740

You can provide factual information to an employee about:

- what choosing a super fund is about

- your obligations
- what you can do to nominate a super fund as their chosen fund.

Unless you're licensed by the Australian Securities and Investments Commission (ASIC) to provide financial advice, don't make comments, recommendations or give advice about:

- the super fund an employee should choose
- the level of their super contributions
- whether an employee's super should be consolidated.

 If your employees want more information about how to compare and choose super funds, we recommend you tell them to:

- visit the ASIC MoneySmart website at [www.moneysmart.gov.au](http://www.moneysmart.gov.au) <<http://www.moneysmart.gov.au/>>
- phone ASIC on **1300 300 630**.

 [Employers superannuation - home](#)

## What happens if you don't meet your choice of fund obligations

- <http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Offering-your-employees-a-choice-of-super-fund/Step-3--Act-on-your-employee-s-choice/What-happens-if-you-don-t-meet-your-choice-of-fund-obligations/>
- Last modified: 12 Apr 2013
- QC 33752

If you don't meet your choice of super fund obligations, including paying your employee's super contributions to the correct fund, you may be liable for a 'choice liability'.

The choice liability is part of the [superannuation guarantee charge](#) (SGC).

You incur the choice liability if:

- you've paid super contributions to a complying fund for your employee but not to the fund they chose
- you haven't given your employee a *Standard choice form* within the required timeframe
- you charge your employee a fee for implementing their choice of super fund.

To avoid paying the SGC, you must pay at least the correct amount of super contributions to the correct fund for your employee by the quarterly cut-off dates.



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## Where to pay super contributions

- <http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Where-to-pay-super-contributions/>
- Last modified: 12 Apr 2013
- QC 33748

To meet your super obligations, you must pay your contributions to a complying super fund or retirement savings account (RSA).

An RSA is a type of account offered by institutions such as banks and building societies. It's used for retirement savings and is similar to a super fund.

This section has information about:

- [checking that a super fund is complying](#)
- [award obligations](#)
- the [Small Business Superannuation Clearing House](#) service.

## Checking that a super fund is complying

A super fund is complying if it meets specific requirements and obligations under super law.



You can check our register of complying super funds by visiting [www.superfundlookup.gov.au](http://www.superfundlookup.gov.au)  
<<http://www.superfundlookup.gov.au/>>

You can also talk to the fund's trustee to check whether the fund is complying. If they confirm in writing that it's a complying fund and you find out later that it's not, you're protected against penalties for paying contributions to a non-complying fund.

The fund must indicate that they:

- intend to accept your super contributions
- will continue to meet the relevant legal requirements.



If you pay a contribution to a non-complying super fund it:

- won't count towards meeting your super guarantee obligations
- won't be tax deductible
- may incur an FBT liability.

## Self-managed super funds

If the fund is self-managed, you can ask for evidence from the trustee that it's a regulated super fund. This evidence must have originated from us and must include:

- for a new fund - a notice of registration called *Advice about regulation of your self-managed fund*
- for a fund that has been in existence for at least two years - a letter of compliance called *Notice of complying fund status - self-managed superannuation fund*.



If the fund is self-managed and you need evidence from us that it's a regulated super fund, phone **13 10 20**.



Some self-managed superannuation schemes advertise that they can help you access your preserved super money before retirement. These schemes are illegal. Promoters of these illegal schemes claim they can help you gain access to your super money for any number of reasons, including paying credit card debts, buying a house or car, or even a holiday.

## Award obligations

Many employers have an award obligation to pay super contributions into a specified fund. If you're not doing this, you may not be meeting your award obligations, so we recommend you check any relevant industrial award for details.

Any super contributions you pay to a super fund or RSA under an award arrangement will usually count towards meeting your super guarantee obligations. However, you must also ensure the fund or RSA satisfies any choice of super fund obligations you may have.



If the super contributions percentage in an award is below 9%, you must pay extra contributions to meet this minimum level. If you don't do this, you'll incur a superannuation guarantee charge (SGC).

## Small Business Superannuation Clearing House

If you have fewer than 20 employees, you can use the free Small Business Superannuation Clearing House service administered by the Department of Human Services.

The service is optional. It's designed to reduce red tape and compliance costs for small businesses by letting employers pay their super guarantee contributions to a single location in one simple electronic transaction.

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- You can find out more or register for the service by:
- visiting the Department of Human Services website at [www.medicareaustralia.gov.au/super](http://www.medicareaustralia.gov.au/super) <<http://www.medicareaustralia.gov.au/super>>
  - phoning them on **1300 660 048**.

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- [Employers superannuation - home](#)

## Tax file numbers

- <http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Tax-file-numbers/>
- Last modified: 12 Apr 2013
- QC 33742

You have to pass on your employee's TFN to their super fund within 14 days of receiving a *Tax file number declaration* form from your employee, or when you make the first payment to the fund after receiving the TFN, whichever occurs last. This rule only applies if you have to make super payments for that employee.

If your new employee gives you their TFN, it's important you pass it on to their fund so:

- you'll avoid penalties
- the super fund can avoid paying extra tax of 31.5% on the amounts they receive (the tax would come out of your employee's account)
- your employee won't miss out on super co-contribution payments
- the super fund can accept the employee's personal contributions
- it's easier for your employee to keep track of their super.

If one of your current employees has not given you a TFN declaration since 1 July 2007, they can complete an Authority to provide your tax file number to your super fund to give you authority to pass their TFN to their super fund.

 You can download a copy of the [Authority to provide your tax file number to your super fund](#) (NAT 72129).

You must use a paper copy of the *Tax file number declaration* (NAT 3092) form. You can get this form:

- through online ordering
- by phoning us on **1300 720 092**
- from selected newsagents.

If you use a third party to manage your payroll or a clearing house to distribute super contributions to your employees' funds, you should make sure your contracts allow them to pass TFNs to funds or RSAs on your behalf, and that they do so. If they don't pass on the TFNs, you're liable for the penalties, not the payroll service provider or clearing house.

 If you don't provide a new employee's TFN to their super fund or RSA within the required time, you are liable for a penalty of up to 10 penalty units (currently \$1,100) for each employee.

## Employee contributions

If you have an employee who wants to make personal super payments as a payroll deduction, make sure they also give you their TFN to pass on to their super fund.

A super fund can't accept your employee's personal contributions if it doesn't have their TFN.

To help your employee, you could include their TFN when sending personal contributions on their behalf.

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## Salary sacrificing super

- <http://www.ato.gov.au/Business/Employers-super/Setting-up-super-for-a-worker/Salary-sacrificing-super/>
- Last modified: 12 Apr 2013
- QC 33744

Salary sacrifice is an arrangement where an employee agrees to forego part of their future salary or wages in return for their employer providing benefits of a similar value. Subject to your agreement, an employee can sacrifice their salary or wages into a variety of benefits, including super.

If you make super contributions for an employee under an effective salary sacrifice arrangement, there may be benefits for both you and your employee:

- super contributions to complying super funds are not a fringe benefit
- super contributions are deductible if your employee is under 75 years old
- salary sacrifice reduces your employee's assessable income
  - super contributions are concessional tax in the fund
  - contributions are taxed in your employee's super fund at 15%, which is usually less than the employee would pay if they took the money as salary
  - caps apply to super contributions - any super contributed over the cap amount is subject to extra tax.

If you and your employee enter into a salary sacrifice arrangement:

- super guarantee payments you make for the employee are calculated on the reduced salary
- the salary sacrificed amount counts towards your super guarantee payment obligations.



There's no legal requirement in the super laws for you to offer salary sacrifice arrangements to your employees, although there may be requirements in relevant industrial awards. If you're considering offering such arrangements, you may wish to speak to a financial adviser about the implications for your business.



For the 2009-10 financial year and all future years, if you make super contributions under a salary sacrifice arrangement or extra super contributions to a super fund for an employee, you may need to report those contributions on your employee's payment summary. For more information, refer to [Employer guide for reportable employer super contributions](#).



For more information, refer to [Salary sacrificing super - information for employers](#).

[Employers superannuation - home](#)

## How much to pay and when to pay

- <http://www.ato.gov.au/Business/Employers-super/How-much-to-pay-and-when-to-pay/>
- Last modified: 23 Sep 2013
- QC 33745

From 1 July 2013, you must pay a minimum of 9.25% of each eligible employee's ordinary time earning each quarter in super. From 1 July 2014, the rate will increase to 9.50% and will continue to increase until it reaches 12% on 1 July 2019.

The table below shows the super guarantee rate increases.

Year	Rate
2012-13	9.00%
2013-14 (current rate)	9.25%
2014-15	9.50%
2015-16	10.00%
2016-17	10.50%
2017-18	11.00%
2018-19	11.50%
2019-20	12.00%



For help working out how and when to apply the SG rate increase refer to

[Super reform - questions and answers for employers](#)

Ordinary time earnings (OTE) is usually the amount your employee earns for their ordinary hours of work. It includes things like commissions, shift-loadings and allowances, but doesn't include overtime payments.

Super is calculated quarterly - that is, every three months. For each of your employees:

- multiply their ordinary time earnings for the quarter by 9.25%
- pay this amount to a complying super fund or retirement savings account by the quarterly cut-off date.

If you back-pay salary or wages to a former employee you have to pay super contributions on that back pay.



You can use the [Superannuation guarantee \(SG\) contributions calculator](#) to work out how much super you must contribute for your eligible workers.



For information about the announced changes to super from 1 July 2013, refer to [Introducing your super - employers](#).

You have to pay super guarantee contributions for each eligible employee at least four times a year. Payments must be made by the quarterly cut-off dates:

Quarter	Period	Payment cut-off date
1	1 July - 30 September	28 October
2	1 October - 31 December	28 January
3	1 January - 31 March	28 April
4	1 April - 30 June	28 July



### Timing of super contributions

Your employees should be aware that super guarantee contributions count towards their concessional contributions cap in the year the fund actually receives the contribution. For more information refer [Super contributions - too much super can mean extra tax](#).

You can claim a full tax deduction for super payments you make for employees under 75 years old by the cut-off date.



If you haven't paid the minimum amount to the correct fund on time, you have to lodge a Superannuation guarantee charge statement and pay the superannuation guarantee charge (SGC). The SGC is not tax deductible and neither are some late payments.



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## When to pay

- <http://www.ato.gov.au/Business/Employers-super/How-much-to-pay-and-when-to-pay/When-to-pay/>
- Last modified: 17 Feb 2014
- QC 33753

You have to pay super for eligible employees from the first day you employ them. For each eligible employee, you have to pay these super guarantee contributions to the correct super fund at least four times a year, by the quarterly cut-off dates shown in the following table.

### Quarterly payment-cut off dates

Quarter	Period	Payment cut-off date
1	1 July - 30 September	28 October
2	1 October - 31 December	28 January
3	1 January - 31 March	28 April
4	1 April - 30 June	28 July

When a cut-off date for payment falls on a weekend or public holiday, you can make the payment on the next working day.

You can pay contributions more regularly than quarterly if you want to. For example, you can pay fortnightly or monthly, as long as the total super guarantee obligation for the quarter is paid by the quarterly cut-off date.



### Check you meet all requirements

You should also check whether other super fund, award or other contractual requirements apply. Some super funds, awards or contracts require superannuation to be paid more regularly (for example, monthly) and you may need to meet these requirements. Compliance with one arrangement does not necessarily ensure compliance with another.



### Payment of member personal super contributions

If you enter into an arrangement with your employee to make post-tax super contributions on their behalf, make sure you pay these contributions promptly, in accordance with the employee's terms of employment and any legal requirement (that is, industrial award conditions).



If you pay any super guarantee contributions after the cut-off date, you have not met your super guarantee obligations and will have to lodge a Superannuation guarantee charge statement - quarterly (NAT 9599) and pay the super guarantee charge to us. The super guarantee charge is not tax deductible and neither are most late payments.

## Clearing houses

If you pay a super guarantee contribution through a clearing house, it's counted as being paid on the date the super fund receives it, not the date the clearing house receives it (unless you use the Small Business Superannuation Clearing House service - see below).

Check with your clearing house to make sure you allow enough time for your payments to be processed before the quarterly cut-off dates.

### Small Business Superannuation Clearing House

Businesses with fewer than 20 employees can use the free Small Business Superannuation Clearing House (clearing house) service administered by Department of Human Services.

If you register to use this service:

- your super guarantee contributions are counted as being paid on the date the clearing house accepts them (so long as the fund does not reject the payments)
- if you receive an employee's choice of fund nomination, you have 21 days to pass the information to the clearing house.

The clearing house service is optional. It's designed to reduce red tape and compliance costs for small businesses by letting employers pay their super guarantee contributions to a single location in one simple electronic transaction.

-  You can find out more or register for the service by:
- visiting the Department of Human Services website at [www.medicareaustralia.gov.au/super](http://www.medicareaustralia.gov.au/super) <<http://www.medicareaustralia.gov.au/super>>
- phoning them on **1300 660 048**.

 The government has announced that it will reduce red tape for small business by transferring the Small Business Superannuation Clearing House to the Australian Taxation Office from April 2014. At this stage there will be no change to the service delivered for new or existing customers.

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## Claiming a tax deduction

- <http://www.ato.gov.au/Business/Employers-super/How-much-to-pay-and-when-to-pay/Claiming-a-tax-deduction/>
- Last modified: 02 Aug 2013
- QC 33858

You can claim a full tax deduction for super payments you make for employees under 75 years old by the cut-off date. Super payments are tax deductible in the financial year you pay them.

### Example

Brett has five employees and he wants to claim a tax deduction for the super contributions he makes in 2012–13 in the same year's income tax return. To claim a tax deduction, Brett must have paid these super contributions to a complying super fund or retirement savings account by 30 June 2013.

However, Brett does not pay the super contributions for the fourth quarter of 2012–13 until 5 July 2013, so he cannot claim these fourth quarter contributions as a deduction until the end of the next financial year (2013–14).



If the required super contributions are not paid by the relevant quarterly cut-off dates, you'll lose the tax deductions you would normally get. The super guarantee charge [<http://ato.gov.au/Business/Employers-super/What-you-must-do-if-you-haven-t-met-your-obligations/>](http://ato.gov.au/Business/Employers-super/What-you-must-do-if-you-haven-t-met-your-obligations/) is not tax deductible and neither are some late payments.

Contributions made to a clearing house (including the Small Business Superannuation Clearing House) cannot be claimed as a tax deduction until the payment is received by the super fund.

You can also claim a tax deduction for super payments you make for employees 75 years old or over, if you have to make the payments because your employee is covered under:

- an industrial award
- a determination
- a notional agreement preserving state awards.



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## Calculating how much to pay

- <http://www.ato.gov.au/Business/Employers-super/How-much-to-pay-and-when-to-pay/Calculating-how-much-to-pay/>
- Last modified: 01 Jul 2013
- QC 33861

To work out how much super you have to pay for each of your employees, multiply their ordinary time earnings for the quarter by 9.25%. You then pay this amount to a complying super fund or retirement savings account by the quarterly payment cut-off date, which is 28 days after the end of each quarter.

Your employee's earnings are calculated from the first day you employ them.

If you make super contributions under an award, check that the contributions are enough to satisfy both the award and the super guarantee requirements of 9.25% of ordinary time earnings.

### Example

During the first quarter of the 2013-14 financial year (1 July - 30 September 2013) Danni's ordinary time earnings were \$8,000.

The super contribution Danni's employer must pay for Danni for this quarter:

$$\$8000 \times 9.25\% = \$740$$

To avoid paying the super guarantee charge, Danni's employer must contribute at least \$740 to a complying super fund or RSA for Danni by 28 October 2013.

## Maximum contribution base

The maximum contribution base is the maximum amount of superannuation support that an employer has to provide for an employee each quarter. It's indexed annually. You don't have to pay super guarantee contributions for any earnings above this limit. This limit does not apply to other mandated contributions, such as contributions you pay under an award.

 To find the maximum contribution base, refer to the [maximum contribution base table](#).

The new indexed maximum amount is generally available before the start of each financial year.

## Super on back-paid salary or wages

If you back-pay salary or wages to a former employee, you have to pay super contributions on that back pay or you'll be liable for the super guarantee charge.

### Example

On 30 June 2013, Sue finished her employment with company ZYX. In September 2013, the company provided Sue with back pay of 2% for the period from 1 January 2013 to 30 June 2013.

Company ZYX must pay a super contribution for the back pay and they must do this by the quarterly cut-off date of 28 October 2013.

Company ZYX will need to calculate Sue's super contribution at 9.25%. The payment should generally be made to the fund the company paid Sue's last super contribution into.

If company ZYX doesn't pay the super on time to a complying fund or retirement savings account, they will have to lodge a SGC statement and pay us the SGC to us.

 For information about the announced changes to super from 1 July 2013, refer to [Introducing your super - employers](#).

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## Ordinary time earnings

- <http://www.ato.gov.au/Business/Employers-super/How-much-to-pay-and-when-to-pay/Ordinary-time-earnings/>
- Last modified: 01 Jul 2013
- QC 33757

Ordinary time earnings are generally what your employees earn for their ordinary hours of work, including:

- over-award payments
- commissions
- shift-loading
- allowances
- bonuses.

Our [checklist](#) shows various types of payments to employees and whether or not they are considered ordinary time earnings.

## Overtime payments

Payments for work performed outside an employee's ordinary hours of work are not ordinary time earnings. This is so whether the payments are calculated at an hourly rate or the employee gets a specific loading, or an annualised or lump sum component of a total salary package, that is expressly remuneration for overtime hours worked.

However, where overtime amounts can't be distinctly identified, the hours actually worked will be included in ordinary hours of work.



For examples of ordinary time earnings and salary or wages, refer to [SGR 2009/2, Superannuation guarantee: meaning of the terms 'ordinary time earnings' and 'salary or wages' <http://law.ato.gov.au/view.htm?DocID=SGR/SGR20092/NAT/ATO/00001&PiT=99991231235958>](#).



### Other earnings bases

From 1 July 2008, you must use ordinary time earnings (as defined in the super guarantee law) to work out the minimum required super guarantee contributions for your employees. If you use an earnings base other than ordinary time earnings to work out your super contributions and the amount you pay is less than the minimum 9.25%, you will have to increase this amount to meet the minimum amount required, otherwise you'll be liable for the SGC.



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## Checklist for salary or wages and ordinary time earnings

- <http://www.ato.gov.au/Business/Employers-super/How-much-to-pay-and-when-to-pay/Ordinary-time-earnings/Checklist-for-salary-or-wages-and-ordinary-time-earnings/>
- Last modified: 25 May 2013
- QC 33860

Payments to an employee in relation to:	Salary or wages?	Ordinary time earnings?
<b>Awards and agreements</b>		
Overtime hours - award stipulates ordinary hours to be worked and employee works additional hours for which they are paid overtime rates	Yes	No
Overtime hours - agreement prevailing over award	Yes	No
Agreement supplanting award removes distinction between ordinary hours and other hours	Yes - all hours worked	Yes - all hours worked
No ordinary hours of work stipulated	Yes - all hours worked	Yes - all hours worked
Casual employee: <ul style="list-style-type: none"> <li>• shift-loadings</li> <li>• overtime payments</li> </ul>	Yes Yes	Yes No
Casual employee whose hours are paid at overtime rates due to a 'bandwidth' clause	Yes	No
Piece-rates - no ordinary hours of work stipulated	Yes	Yes
	Yes	No

Overtime component of earnings based on 'hourly driving rate' formula stipulated in award		
<b>Allowances</b>		
Allowance by way of unconditional extra payment	Yes	Yes
Expense allowance expected to be fully expended	No	No
Danger allowance	Yes	Yes
Retention allowance	Yes	Yes
Hourly on-call allowance in relation to ordinary hours of work for doctors	Yes	Yes
<b>Payment of expenses</b>		
Reimbursement	No	No
Petty cash	No	No
Reimbursement of travel costs	No	No
Payments for unfair dismissal	No	No
Workers' compensation: <ul style="list-style-type: none"> <li>• returned to work</li> <li>• not working</li> </ul>	Yes No	Yes No
<b>Leave payments</b>		
Annual leave	Yes	Yes
Parental leave - eg maternity leave, paternity leave, adoption leave	No	No.

Ancillary leave - eg jury duty, defence reserve service	No	No.
<b>Termination payments</b>		
Termination payments: <ul style="list-style-type: none"> <li>• in lieu of notice</li> <li>• unused annual leave</li> </ul>	Yes Yes	Yes No
<b>Bonuses</b>		
Performance bonus	Yes	Yes
Bonus labelled as ex-gratia but in respect of ordinary hours of work	Yes	Yes
Christmas bonus	Yes	Yes
Bonus in respect of overtime only	Yes	No



[Employers superannuation - home](#)

## Employer contributions – how to pay

- <http://www.ato.gov.au/Business/Employers-super/How-much-to-pay-and-when-to-pay/How-to-make-contributions/>
- Last modified: 06 Feb 2014
- QC 38469

You will soon need to comply with a new data and payment standard (SuperStream) when paying employer superannuation contributions.

Under SuperStream, all employer contributions (both data and payments) must be made electronically. The contribution data will be sent electronically to the fund and contribution payment will be sent electronically through the banking system.

## Implementation date for SuperStream

Employers with 20 or more employees will start adopting SuperStream from 1 July 2014.

Employers with 19 or fewer employees will start adopting it from 1 July 2015.

Adopting SuperStream will mean a change of processes – and in many cases, systems – for employers and funds. How you go about this will depend on your business, so get advice from your funds and service provider early.

## Your obligations under SuperStream

When you adopt SuperStream, you or the service providers acting on your behalf must:

- send all mandatory data in the specified format
- make payments electronically
- send money and data on the same day
- link data and money with a unique payment reference number
- respond to fund requests for more information within 10 days.

## Start preparing for SuperStream

You have a number of options available to help you adopt SuperStream. Your fund or service provider (such as a clearing house, payroll software provider, accountant or bookkeeper) can help you find the right one for your business.

Options available include:

- upgrading your in-house systems or payroll software package
- using an outsourced payroll service
- using a clearing house.

You should also speak with your default fund to see what support or transitional arrangements they may provide.

To ensure that you are ready to adopt SuperStream, you should investigate these options now.

## Small Business Clearing House

If you are a small employer with 19 or fewer employees, you may be eligible to use the free Small Business Superannuation Clearing House (SBSCH).

Using the SBSCH will enable you to adopt the standard quickly and simply.



Find out more

To register for the SBSCH service or find out more about it:

- visit the Department of Human Services (DHS) website, [www.medicareaustralia.gov.au/super](http://www.medicareaustralia.gov.au/super)

<http://www.medicareaustralia.gov.au/super>

- phone DHS on **1300 660 048**.

To find out more about SuperStream and how to prepare for it, go to [datastandards](#).

## If you haven't met your obligations

- <http://www.ato.gov.au/Business/Employers-super/What-you-must-do-if-you-haven-t-met-your-obligations/>
- Last modified: 19 Dec 2013
- QC 33750

If you haven't met your super obligations as an employer, you have to lodge a *Superannuation guarantee charge statement – quarterly* (NAT 9599) and pay a superannuation guarantee charge to us. Additionally, your business might lose the tax deduction you would normally get for super contributions, because the super guarantee charge is not tax deductible and neither are most late payments.

You'll have to pay the super guarantee charge if you:

- don't pay enough super contributions for your employee – this is called a super guarantee shortfall
- don't pay super contributions by the quarterly cut-off date for payment.
- don't pay super to your employee's chosen super fund – this is called a choice liability.

The super guarantee charge is made up of the super guarantee shortfall amounts (including any choice liability), nominal interest at 10% per annum, and an administration fee of \$20 per employee, per quarter.



The shortfall amount is calculated on your employee's total salary or wages not their ordinary time earnings (OTE).

### **What you must do**

You'll have to:

- complete a *Superannuation guarantee charge statement - quarterly*
- work out the amount of super guarantee charge to pay
- pay the super guarantee charge to us by the due date for the relevant quarter.



**Get it done**

[Superannuation guarantee charge statement and calculator tool](#) – use the tool to calculate your super guarantee charge liability and prepare the super guarantee charge statement you lodge with us.

### If you've paid a late contribution

If you pay a super contribution to a super fund after the cut-off date, you may be able to use this late payment as an offset to reduce the amount of super guarantee charge you have to pay. You must still lodge a *Superannuation guarantee charge statement - quarterly* and pay the balance of the super guarantee charge.

### Director penalties

Company directors have a legal responsibility to ensure that their company meets its superannuation guarantee charge (SGC) obligations. The director of a company that fails to meet an SGC liability in full by the due date automatically becomes personally liable for a penalty equal to the unpaid amount.

### Other penalties

As well as the super guarantee charge, there are several other penalties and charges that might apply, depending on your circumstances. For example, penalties apply if you:

- don't keep adequate records
- make false or misleading statements,
- fail to provide a *Superannuation guarantee charge statement-quarterly* when required

### Amendments and objections

We treat your *Superannuation guarantee charge statement - quarterly* as an assessment. Like any assessment, you can ask for it to be amended or object to it.

## If you've paid a late contribution

- <http://www.ato.gov.au/Business/Employers-super/What-you-must-do-if-you-haven-t-met-your-obligations/If-you-ve-paid-a-late-contribution/>
- Last modified: 12 Apr 2013
- QC 33759

If you pay a super contribution to a super fund after the cut-off date, you may be able to use this late payment to reduce the amount of super guarantee charge you pay. This is called the super guarantee late payment offset.

Even if you make a late payment, you must still lodge a *Superannuation guarantee charge statement - quarterly* and pay the super guarantee charge to us. Penalties apply if you don't.

You'll generally be able to offset amounts paid late to a super fund against the super guarantee charge if:

- you have made a late payment to your employee's super fund
- you made the payment before the date your original super guarantee charge assessment was made
- you lodge your late payment offset election with us within four years of your original super guarantee charge assessment date.

If you have not lodged a super guarantee charge statement or received a super guarantee charge assessment for the period for which you want to claim an offset, you need to:

- for quarterly periods - lodge a [Superannuation guarantee charge statement - quarterly](#) (NAT 9599), ensuring you complete the 'offset for late payment' section
- for annual periods - lodge both the [Superannuation guarantee statement](#) (NAT 2224) and a [Superannuation guarantee late payment offset election](#) (NAT 14899).

If you've already lodged a super guarantee charge statement or received a super guarantee charge assessment for either a quarterly or an annual period for which you want to claim an offset, you need to lodge a [Superannuation guarantee late payment offset election](#) (NAT 14899).



If you choose to reduce your liability to pay super guarantee charge with your late payment to the super fund:

- the late payment is not tax deductible for income tax purposes
- once you claim an offset, you can't change the offset amount or revoke the election
- any late contribution you use to reduce the amount of your super guarantee charge payable cannot be used as a pre-payment for current or future super contributions.

If you don't want to offset your late payment against your super guarantee charge, you may be able to use the late contribution towards your super guarantee liability for a future quarter. You can apply a late contribution against a future quarter if:

- it is for the same employee for whom the late payment was originally made
- it is for the current quarter or for a future quarter up to 12 months after the date the late contributions were paid.

If you carry forward a late contribution to a future quarter, the amount carried forward is tax deductible. If you carry forward your late contribution, you still need to lodge a super guarantee charge statement and pay the charge for the period for which the late contribution was originally made. You can't claim a late payment offset for contributions used as a prepayment for current or future periods.

You should talk to your tax advisor to determine the best outcome for your situation.



To calculate your super guarantee charge liability and prepare your super guarantee charge statement, use the online [Superannuation guarantee charge statement and calculator tool](#).

## Example

Charles must pay super contributions for his employee, Joanna. Under super guarantee law, Charles must make a contribution to Joanna's super fund by 28 April 2010 for the quarter ending 31 March 2010.

However, Charles made the payment to the fund on 1 May 2010. This is:

- after the quarterly cut-off date of 28 April 2010, but
- before the date an original superannuation guarantee charge assessment was made.

As Charles missed the quarterly cut-off date, he must lodge a *Superannuation guarantee charge statement - quarterly* and pay us the super guarantee charge.

In this statement, Charles chooses to have the late payment applied as an offset to reduce the super guarantee charge he must pay. Charles lodges his *Superannuation guarantee charge statement - quarterly* on 10 May 2010, claims the late payment offset and pays the difference.



Where an employer is covered by an award, they must ensure compliance with both super guarantee and award arrangements. Awards may have different requirements for:

- how often payments must be made under the award
- due dates for payments
- when penalties for breaches of their requirements apply.

Where an employer elects to use a late payment offset against the super guarantee charge, and has not met the requirements under an award, any liability for award sanctions still apply.



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## Director penalties

- <http://www.ato.gov.au/Business/Employers-super/What-you-must-do-if-you-haven-t-met-your-obligations/Director-penalties/>
- Last modified: 12 Apr 2013
- QC 33855

Company directors have a legal responsibility to ensure that their company meets its superannuation guarantee charge (SGC) obligations.

The director of a company that fails to meet an SGC liability in full by the due date automatically becomes personally liable for a penalty equal to the unpaid amount.

When an SGC liability remains outstanding, we may issue a director penalty notice (DPN), although this is only necessary to enable us to start legal proceedings to recover the penalty. Even without issuing a notice, we can collect the penalty by other means, for example, by withholding a tax refund.

## Remitting the penalty

The penalty will be remitted if your company pays the outstanding amount at any time.

It will also be remitted if, at any time before the 22nd day after a DPN is given to you:

- your company has gone into voluntary administration or liquidation, and
- it had reported its SGC liabilities to us within three months of the due dates.

## Other penalties

- <http://www.ato.gov.au/Business/Employers-super/What-you-must-do-if-you-haven-t-met-your-obligations/Other-penalties/>
- Last modified: 12 Apr 2013
- QC 33760

## General interest charge

If you lodge the *Superannuation guarantee charge statement - quarterly* but don't pay the super guarantee charge by the due date, you incur an additional charge. This is called the general interest charge, and it accrues from the date your SGC is due up to the date you pay your super guarantee charge account in full. The general interest charge is calculated on a daily compounding basis and is tax deductible in the year you incur it.

## Administrative penalty

If you pay less super guarantee charge than you're liable to pay because you made a false or misleading statement, in addition to charging you the shortfall itself plus nominal interest and administrative components, we can also impose an administrative penalty. The base penalty amount is 75% of the shortfall and can vary according to your circumstances.

## Failing to keep records

If you fail to keep adequate records, and you're prosecuted and convicted of this offence, there is a maximum fine of \$3,300 for an individual and \$16,500 for a corporation. You may also be liable for an administrative penalty of \$2,200.

## Not providing a Superannuation guarantee charge statement - quarterly when required

If you lodge your SGC statement late, or fail to provide a statement or information when we ask for it during an audit, you are liable for a penalty. The maximum penalty is 200% of the amount of the charge payable.

## Arrangements to avoid your obligations

If you enter into arrangements to avoid certain obligations, such as your liability for the super guarantee charge, you may incur the charge you avoided and also an additional penalty. We can vary the base penalty according to your circumstances.



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## Amendments and objections

- <http://www.ato.gov.au/Business/Employers-super/What-you-must-do-if-you-haven-t-met-your-obligations/Amendments-and-objections/>
- Last modified: 12 Apr 2013
- QC 33862

When we receive your *Superannuation guarantee charge statement - quarterly*, we treat it as an assessment issued on that date.

You can ask for your super guarantee charge assessment to be amended at any time within four years of the date it was made. You must provide copies of all supporting documentation with your amendment request.

You can object to an assessment within 60 days of the date of issue of your assessment. To object to an assessment, you must:

- provide us with the grounds for your objection in writing
- sign your statement (or have an authorised representative sign it)
- provide us with copies of the evidence to support your arguments.

You must still pay the super guarantee charge, even if you're objecting or requesting an amendment to your assessment. However, if you're successful, we will:

- refund any overpayment
- pay interest on this amount.

You can't object to the general interest charge, although you can ask us to remit it if the circumstances are exceptional. To do this, explain in writing why you should not have to pay the general interest charge and send your request to us at:

Australian Taxation Office  
PO Box 277  
WTC VIC 8005

## Appeals and review process

If your objection is not allowed in full, you may apply to the Administrative Appeals Tribunal for a review or appeal to the Federal Court against the decision within another 60 days.



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## Records you need to keep

- <http://www.ato.gov.au/Business/Employers-super/Records-you-need-to-keep/>
- Last modified: 12 Apr 2013
- QC 33741

You can use whichever method suits you best to keep records of your super guarantee payments and choice of fund obligations. However, the following limitations apply:

- your records must be written in English (or in a format that can be easily accessed and converted into written English)
- you must keep your super records for five years
- if you keep electronic records, software must be available to access older floppy disks, CDs and computer records.



Even if you use a clearing house to distribute super to your employees' funds, you're still responsible for keeping adequate records of super guarantee payments.

### **Super guarantee records**

You must keep:

- records showing the amount of super you paid for each employee
- any documents that helped you calculate the amount of super you paid.

### **Choice of super fund records**

You must keep records to show you have offered your eligible employees a choice of super fund.

### **Super guarantee reporting requirements**

Tax law doesn't require you to report to your employees about the super contributions made on their behalf, but you might like to do so anyway.

Some workplace legislation, awards or agreements may require that you report super contributions on payslips. This applies especially to companies under the Fair Work Act.



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## Super guarantee records

- <http://www.ato.gov.au/Business/Employers-super/Records-you-need-to-keep/Super-guarantee-records/>
- Last modified: 12 Apr 2013
- QC 33738

You must keep:

- records showing the amount of super you paid for each employee
- any documents that helped you calculate the amount of super you paid.

As with other business dealings, you must keep documents that affect the amount you have to pay, such as advice from trustees about the funds you're contributing to. There are penalties for failing to keep accurate records.

If you lodge a *Superannuation guarantee charge statement - quarterly*, you must also keep records of how you worked out the amounts.

A penalty of up to \$3,300 for an individual and \$16,500 for a corporation applies for failing to keep records.

If you pay super under an award, you may have additional record-keeping obligations. Check your relevant award or regulations.



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## Choice of super fund records

- <http://www.ato.gov.au/Business/Employers-super/Records-you-need-to-keep/Choice-of-super-fund-records/>
- Last modified: 12 Apr 2013
- QC 33859

You must keep the following records to show you have offered your eligible employees a choice of super fund:

- details of employees who you don't have to offer a choice of super fund to - for example, an employee may not be eligible to choose if the certified agreement that covers their employment requires super to be paid to a specific fund
- confirmation that your nominated (default) fund meets the insurance requirements - this could be a copy of the product disclosure statement provided by the fund or a record of a phone conversation with an authorised representative of the fund about the level of insurance it offers

- evidence that you have provided the *Standard choice form* to all eligible employees - for example, you may issue the *Standard choice form* by email and keep copies of the emails, as well as the written information your employee provides when they nominate their chosen fund
- receipts or other documents issued by the fund showing you have made super contributions for that employee to their chosen fund.



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## Super guarantee reporting requirements

- <http://www.ato.gov.au/Business/Employers-super/Records-you-need-to-keep/Super-guarantee-reporting-requirements/>
- Last modified: 12 Apr 2013
- QC 33739

Some employers who are covered under workplace legislation, awards or agreements have an obligation to report super contributions on payslips. This applies in particular to companies, under the Fair Work Act.

However, under tax law, other employers don't have to report super contributions to their employees - but doing so may help you manage employee relationships and staff enquiries, especially if you already have reporting systems in place.



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## What you must do

- <http://www.ato.gov.au/Business/Employers-super/What-you-must-do/>
- Last modified: 01 Jul 2013
- QC 33743

If you haven't met your obligations, you must lodge a *Superannuation guarantee charge statement - quarterly* by the due date and pay a super guarantee charge to us.

## Working out how much to pay and completing the statement

The super guarantee charge is made up of:

- super guarantee shortfall amounts (including any choice liability)
- interest on that amount (10% per annum)

- an administration fee (\$20 per employee per quarter).



Use the online [Superannuation guarantee charge statement and calculator tool](#) to calculate your super guarantee charge liability and prepare your super guarantee charge statement.

Alternatively, you can download and print a copy of the [Superannuation guarantee charge statement - quarterly](#) (NAT 9599).

If you pay a super contribution to a super fund after the cut-off date, you may be able to use this late payment to reduce the amount of super guarantee charge you pay. You must still lodge a *Superannuation guarantee charge statement - quarterly* and pay the balance of the SGC to us.



Directors of companies that are required to pay super guarantee for their employees may be personally liable for any unpaid or unreported SGC liabilities of their companies.

## Due dates for payment

You must lodge your super guarantee charge statement and pay the super guarantee charge by the due dates set out in the table below.

Quarter	Period	Due dates for lodgment of the <i>Superannuation guarantee charge statement - quarterly</i> and payment of the SGC to us
1	1 July - 30 September	28 November
2	1 October - 31 December	28 February
3	1 January - 31 March	28 May
4	1 April - 30 June	28 August

When a due date for payment falls on a Saturday, Sunday or public holiday, you can make the payment on the next working day after the due date.

Once you lodge a statement and pay the SGC, we will transfer the super guarantee shortfall amount and any interest to your employee's chosen super fund.



If you know you're going to miss the due date for lodging the *Superannuation guarantee charge statement - quarterly*, you can ask us for an extension of time to lodge. You can also request an extension of time to pay the super guarantee charge.

You must make the request before the due date, in writing, stating why you need an extension. Don't automatically assume you have an extension of time to pay your super guarantee charge just because you've requested one. The nominal interest will continue to accrue until you lodge. The general interest charge (GIC) will then apply until the SGC is paid in full.



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## Our commitment to you

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We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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