

# Super

What employers need to know



## Our commitment to you

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 in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it but we will not charge you a penalty. Also, if you acted reasonably and in good faith we will not charge you interest.

If you make an honest mistake in trying to follow our information in this publication and you owe us money as a result, we will not charge you a penalty. However, we will ask you to pay the money, and we may also charge you interest. If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

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# What every employer needs to know about super.

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## Finding what you need to know

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# A quick look at your super obligations

<p>Are you an employer for super purposes?</p>	<p>You're an employer if you employ a person under a verbal or written employment contract on a:</p> <ul style="list-style-type: none"> <li>■ full-time basis</li> <li>■ part-time basis</li> <li>■ casual basis.</li> </ul> <p>You may also be an employer for super purposes if you make payments to a person under a contract for labour.</p>	<p>See page 5</p>										
<p>Do you have to pay super for your employees?</p>	<p>Generally, you have to pay super for your employees if they:</p> <ul style="list-style-type: none"> <li>■ are between 18 and 69 years old inclusive</li> <li>■ are paid \$450 or more (before tax) in salary or wages in a calendar month</li> <li>■ work full-time, part-time or on a casual basis.</li> </ul>	<p>See page 6</p>										
<p>Are you self-employed?</p>	<p>If you're self-employed, you don't have to make super contributions to a super fund for yourself. However, you may wish to consider super as a way of saving for your retirement.</p> <p>Most self-employed people can claim a full tax deduction for contributions they make to their super until age 75.</p>	<p>See page 7</p>										
<p>Do you have to pay super for contractors?</p>	<p>You may have to make super payments for contractors.</p>	<p>See page 7</p>										
<p>When do you pay super contributions?</p>	<table border="1" data-bbox="403 1608 1289 1865"> <thead> <tr> <th data-bbox="403 1608 858 1659">Quarter</th> <th data-bbox="858 1608 1289 1659">Cut-off date for payment</th> </tr> </thead> <tbody> <tr> <td data-bbox="403 1659 858 1711">1 (Jul – Sep)</td> <td data-bbox="858 1659 1289 1711">28 October</td> </tr> <tr> <td data-bbox="403 1711 858 1762">2 (Oct – Dec)</td> <td data-bbox="858 1711 1289 1762">28 January</td> </tr> <tr> <td data-bbox="403 1762 858 1814">3 (Jan – Mar)</td> <td data-bbox="858 1762 1289 1814">28 April</td> </tr> <tr> <td data-bbox="403 1814 858 1865">4 (Apr – Jun)</td> <td data-bbox="858 1814 1289 1865">28 July</td> </tr> </tbody> </table> <p>When a cut-off date for payment falls on a Saturday, Sunday or public holiday, you can make your payment on the next working day after that date.</p>	Quarter	Cut-off date for payment	1 (Jul – Sep)	28 October	2 (Oct – Dec)	28 January	3 (Jan – Mar)	28 April	4 (Apr – Jun)	28 July	<p>See page 13</p>
Quarter	Cut-off date for payment											
1 (Jul – Sep)	28 October											
2 (Oct – Dec)	28 January											
3 (Jan – Mar)	28 April											
4 (Apr – Jun)	28 July											

How much super do you pay?	You need to pay a minimum of 9% of each eligible employee's ordinary time earnings (that is, the amount they earn for their ordinary hours of work), up to the maximum contribution base for a quarter. If an employee's ordinary time earnings for a quarter are greater than the maximum contribution base, the employer only needs to pay a contribution of 9% of the maximum contribution base.	See page 14
Can you claim a tax deduction?	Generally, super contributions are tax deductible in the financial year you pay them. You are unable to claim a tax deduction for the superannuation guarantee charge, because it is a penalty for failing to meet your super obligations by the cut-off dates.	See page 20
Where do you pay super contributions?	You need to pay contributions into a complying super fund or retirement savings account. Your employees may be able to choose the super fund you pay their super contributions into.	See page 10
Do you need to offer your new employees a choice of super fund?	You need to provide a <i>Standard choice form</i> (NAT 13080) to new employees who are eligible to choose a super fund. You need to provide this form within 28 days of the day they start working for you.	See page 8
Do you need to report additional employer super contributions on the employee's payment summary?	From 1 July 2009, if your employees choose to salary sacrifice some of their before-tax income as super contributions which are in addition to compulsory contributions (such as contributions you are required to make under superannuation guarantee law, awards, trust deed or rules of the super fund, or federal, state or territory laws), you will need to report these to us on your employee's payment summary. These are called reportable employer super contributions.	See page 15
What records do you need to keep?	You need to keep records that show: <ul style="list-style-type: none"> <li>■ the date and amount of super you paid for each employee</li> <li>■ how you worked out the level of super you paid</li> <li>■ that you have offered your eligible employees a choice of super fund</li> <li>■ the details of the super fund that you paid your employee's super into.</li> </ul>	See page 18
What if you don't meet your super obligations?	If you don't meet your super obligations, you'll have to pay a superannuation guarantee charge to us.	See page 16

# Recent changes at a glance

The following changes to super affect you,  
as an employer.

## From 1 July 2009

For the 2009–10 income year and all future years, if you offer your employees the option to salary sacrifice some of their before-tax income as super contributions, or if you make additional employer super contributions above the compulsory super amount, including payment of insurance cover premiums for your employees, you will need to report the additional amounts to us on your employee's payment summary. These amounts are called reportable employer super contributions.

## From 1 July 2010

If you have fewer than 20 employees, you can use the free Small Business Superannuation Clearing House service administered by Medicare Australia.

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

Refer to page 11 for more information.

- **Small businesses can find out more or register for the service by:**
  - visiting the Medicare Australia website at **[www.medicareaustralia.gov.au/super](http://www.medicareaustralia.gov.au/super)**
  - phoning Medicare Australia on **1300 660 048**.
  
- ⚠ **For more information on new or proposed changes to super, visit our website at **[www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper)** – 'News' and select 'What's new in super for employers'.**

# Working out if you have to pay super

## What you need to know about super

As an employer, you have an obligation to pay super contributions on behalf of all your eligible employees. These contributions are in addition to their salary or wages.

This compulsory contribution is called the superannuation guarantee. Under the superannuation guarantee, you have to:

- pay super for your eligible employees
- contribute to the correct super funds
- pay contributions by the cut-off date each quarter.

The minimum amount of super you have to pay is 9% of each eligible employee's ordinary time earnings.

## Employers

You're an employer if you employ workers 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 worker under a contract wholly or principally for their labour.

All employers, including government organisations, statutory authorities and municipal bodies have to pay super for eligible employees.

## Employee eligibility

For superannuation guarantee purposes, an employee is generally an individual who receives payment in the form of salary or wages in return for their labour or services. Eligible employees are workers who are entitled to be paid superannuation guarantee contributions by their employer.

Generally, you have to pay super for any employee who:

- is between 18 and 69 years old inclusive
- you pay \$450 or more (before tax) in salary or wages in a calendar month
- works full-time, part-time or on a casual basis.

You also have to pay super for any employee who meets all of the following:

- is under 18 years old
- you pay \$450 or more (before tax) in salary or wages in a calendar month
- works full-time, part-time or on a casual basis for more than 30 hours in a week.


The superannuation guarantee also applies to the following:

- employees who receive a super pension or annuity while still working. This includes employees who receive an income stream through the transition to retirement measure. Transition to retirement allows people to access their super benefits once they reach their preservation age without having to retire or leave their job.
- Directors of a business. Generally, this means that directors who receive salary or wages, or directors' fees should also receive superannuation guarantee contributions. Eligible family members working in your business must receive superannuation guarantee contributions as well.

## Who is not eligible for super?

You don't have to pay super contributions for:

- employees you pay less than \$450 (before tax) in salary or wages in a calendar month
- employees under 18 years old working not more than 30 hours per week
- employees who are 70 years old or over
- non-resident employees you pay for work done outside Australia
- resident employees for work they do outside Australia if you're a non-resident employer
- 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 a week, such as 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 (that is, the armed forces don't have to pay super contributions for reserve members)
- employees who made an election, before the 1 July 2007 abolition of reasonable benefit limits (RBL), to not receive employer super contributions because their accumulated super benefits exceeded the pension RBL
- 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.

 **We have developed an easy-to-use tool to help you work out if you need to pay super for your employees. The Superannuation guarantee (SG) eligibility decision tool summarises your super obligations for eligible employees, including contractors who are treated as employees.**

**To use the tool, visit [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'Calculators, rates and forms' – then select 'Superannuation guarantee eligibility decision tool'.**

## When your employees' circumstances change

Your existing employees' circumstances may change while they're working for you and you may need to start paying super on their behalf when you previously weren't. For example, they might turn 18 years old, or start working more hours and be paid \$450 or more (before tax) in salary or wages in a month. It's a good idea to double check their eligibility for super if their circumstances change.

## Contractor eligibility

- ⚠ **Be careful not to incorrectly classify an employee as a contractor for superannuation guarantee purposes.**

You need to pay super contributions for contractors you pay under a contract that is wholly or principally for the labour of that person. This is because they are considered employees for the purpose of the superannuation guarantee. This may include contractors who quote an Australian business number (ABN).

- **To help you determine if your contractors are considered employees for superannuation guarantee purposes, use our [Employee/contractor decision tool](http://www.ato.gov.au/employersuper). Visit [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'Calculators, rates and forms' – then select 'Employee/contractor decision tool'.**

## Super for the self-employed

If you are a self-employed business person, 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 they are 75 years old. When considering making a contribution to your super, keep in mind that contributions you make may be subject to extra tax if they exceed the contributions limit for that year.**

## Super for employees working overseas

If you have employees working temporarily overseas, you may be paying more super than you need to.

Double super coverage occurs when an employee works temporarily in another country and that country, as well as Australia, requires super (or equivalent) contributions to be made for the employee.

Employers are exempt from making compulsory super (or equivalent) contributions for employees in the country in which they are sent to work, as long as all of the following apply:

- Australia has a bilateral social security agreement with that country
- the employer continues to make compulsory super contributions under Australia's superannuation guarantee law
- the employer obtains a *Certificate of coverage* from us.

- **You can find out more about bilateral agreements by visiting our website at [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'In detail' – then selecting 'International workers and agreements'.**

# Setting up super

## Choice of super fund

### For current employees

Many employees can choose the super fund their employer pays their super into.

If you have a current employee who is eligible to choose their fund, you need to make sure you've provided them with a *Standard choice form* (NAT 13080).

- ❗ If you change your employer fund or you find out that a particular fund is no longer a complying fund, you need to provide a *Standard choice form* (NAT 13080) to all your affected employees within 28 days.

Employees can only nominate one fund every 12 months. You don't have to accept an employee's request for payments to be made to a new fund if they have already changed funds within the previous 12 months.

- You can find more information about choice of super fund by visiting [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'What you need to know' – then selecting 'Setting up super for a worker'.

### For new employees

If you have a new employee who is eligible to choose their super fund, you must provide them with a *Standard choice form* (NAT 13080) within 28 days of the day they start work with you. You can provide contractors and seasonal workers with this form the first time they work for you and refer to it whenever they work for you again. For more information about contractors, refer to page 7.

You only need to pay into one fund for each employee.

- ❗ Remember to provide your eligible new employees with a *Standard choice form* (NAT 13080) on time to avoid penalties. You also have to include details of your default super fund on the form.
- To obtain a *Standard choice form* (NAT 13080):
  - visit our website at [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'Calculators, rates and forms' – then select 'Forms and instructions' – 'Choosing a super fund – How to complete your Standard choice form'
  - phone us on **1300 720 092**.

You can find more information about choice of super fund by visiting our website at [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'What you need to know' – then selecting 'Setting up super for a worker'.

## Can all employees choose their fund?

Your employees can choose their super fund if they are:

- under a federal award
- under a former state award, now known as a 'notional agreement preserving state award' (NAPSA)
- covered by another award or agreement that doesn't require super support
- not employed under any state award or industrial agreement, including contractors paid principally for their labour.

You don't have to allow your employees to choose their super fund if:

- you're paying them under a state industrial award or a preserved state agreement
- you're paying them under a federal industrial agreement, such as an Australian workplace agreement (AWA), a pre-reform AWA, a pre-reform certified agreement, a collective agreement, an old IR agreement, an individual transitional employment condition (ITEA), a workplace determination or an enterprise agreement (these are defined terms in federal industrial relations law)
- they are in a particular type of defined benefit fund or they have already reached a certain level in a defined benefit fund.

Some federal and state public sector employees are also excluded from choice of super.

**➤ If you are not sure what award or industrial agreement, if any, an employee is covered by:**

- visit Fair Work Ombudsman at **[www.fairwork.gov.au](http://www.fairwork.gov.au)**
- phone the workplace relations department in your state or territory.

## What if an employee does not choose their fund?

If your employee does not choose a fund, you have to pay super for that employee into the fund you have chosen (your default fund or employer nominated super fund).

An employee does not have to choose a fund, but you must give them the choice if they are eligible. Remember to keep a record of the offer you made.

## When do I switch to the employee's chosen fund?

Where your employee chooses a fund, any contributions you make in the two months after receiving the form can be made to either:

- your employer nominated super fund (your default fund)
- your employee's chosen fund.

After the two-month period, you must make contributions to your employee's chosen super fund.

## Do I have to accept the employee's choice?

You don't have to accept your employee's choice of fund if:

- your employee hasn't provided all the information required, or
- the fund would require you to become a 'participating employer' before it is willing to accept super payments from you, and you don't want to accept those conditions.

Being a 'participating employer' may mean you have to make super payments more regularly (such as monthly instead of quarterly). If you agree to become a 'participating employer', complete all necessary agreements before you start making payments.

If you don't accept your employee's choice of fund, you must make payments for them into your default fund.

## Where to pay super

You need to pay contributions on behalf of your employees into a complying super fund or retirement savings account that meets the minimum insurance requirements. You may also have to offer your eligible employees a choice of super fund.

The super fund where you pay super contributions will either be a fund:

- nominated by you (also known as your default fund or employer nominated super fund)
- chosen by your employee, if they are eligible to make a choice.

If eligible, your employee may choose a different fund to the one you have selected (your default fund). If so, you'll need to contact that fund to ensure they'll accept your contributions for that employee.

### What is a complying fund?

A complying fund is a super fund that complies with the super laws and regulations. Although most funds comply, you should visit Super Fund Lookup at **[www.superfundlookup.gov.au](http://www.superfundlookup.gov.au)** to check whether a fund is complying.

You can also check by asking the fund's trustees or managers whether the fund is a complying super fund. You should also ask the fund to confirm in writing whether:

- it intends to accept your super payments and the minimum details required to open an account
- you need to enter into any participating employer agreements
- it will continue to meet its obligations under the law.

If they tell you in writing that the fund complies and you find out later that it doesn't, don't worry – you're protected against penalties for paying into a non-complying fund when you had reason to believe it was a complying fund.

- **You can check if a super fund is complying by visiting [www.superfundlookup.gov.au](http://www.superfundlookup.gov.au)**

### Making payments to a self-managed super fund

If you are making superannuation guarantee contributions for your employees to a self-managed super fund (SMSF), you need to have written notification from the trustees that it is a complying fund or you must verify on Super Fund Lookup that it has a status of either 'Registered – status not determined' or 'Complying'.

If you are making payments to a super fund that has a status of 'non-complying', your contributions will not qualify as superannuation guarantee payments and you cannot claim a tax deduction for contributions you make.

- **Visit [www.superfundlookup.gov.au](http://www.superfundlookup.gov.au) to:**
  - **search for the employee's super fund by name or ABN**
  - **work out if the fund is regulated.**

**If you have any questions about the regulatory status of an SMSF, you can phone us on 13 10 20 between 8am and 6pm, Monday to Friday.**

### What if you pay contributions through a clearing house?

If you pay a super contribution through a clearing house, other than the Small Business Superannuation Clearing House administered by Medicare Australia, it is counted as being paid on the date it is received by the super fund and not the date it is received by the clearing house.

Check with your clearing house to make sure you allow enough time for it to process your superannuation guarantee payments 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 (Medicare Australia's clearing house) service administered by Medicare Australia.

Small businesses that register to use the service will have their superannuation guarantee obligation discharged, as long as all of the following apply:

- they pay the correct amount
- they pay by the super payment cut-off date
- the payment is accepted by the clearing house
- the payment is not rejected by the super fund.

Employers who receive an employee's choice of fund nomination will have their choice obligation discharged if they pass the information to Medicare Australia's clearing house within 21 days of receiving the choice of fund nomination.

Super payments made to Medicare Australia's clearing house by small businesses cannot be claimed as a tax deduction until the payment is received by the super fund.

- **You can find out more or register for the service by:**
  - **visiting the Medicare Australia website at [www.medicareaustralia.gov.au/super](http://www.medicareaustralia.gov.au/super)**
  - **phoning Medicare Australia on 1300 660 048.**

## What are the minimum insurance requirements?

Most super funds will have to offer minimum life insurance amounts to their members after 30 June 2008 unless certain circumstances apply, such as when you:

- make super payments under a federal award or into a retirement savings account
- arrange insurance either with another super fund or with an insurance provider and it meets the requirements.

If the super fund you choose will not provide insurance for a particular employee because of their occupation, health or the hours they work, you can still contribute to the fund for this employee.

## TFNs and super

### For new employees

Your new employees will have to complete a *Tax file number declaration* (NAT 3092). After this, you have to pass on your employee's TFN to their super fund by the earliest of either:

- within 14 days of receiving the form
- when you make the first payment to the fund.

This rule only applies if you have to make super payments for that employee.

### For current employees

If one of your current employees gives you authority to pass on their TFN to their super fund, you need to pass it on by the next time you make a super payment on their behalf to avoid penalties.

You can only pass on your employee's TFN to a fund if they give you authority. An employee can give you authority by either:

- completing a new *Tax file number declaration* (NAT 3092)
- completing an *Authority to provide your tax file number to your super fund* (NAT 72129).

⊖ **If your new employee provides you with their TFN, it's important you pass it on to their fund so:**

- **you avoid penalties**
- **the super fund can avoid paying extra tax 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.**

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 are liable for the penalties, not the payroll service provider or clearing house.

⚠ **The above rules also apply to contractors eligible to receive superannuation guarantee contributions.**

## Check what you know

We've put together the following checklist for you to use. It includes the key information you need to know about setting up super for your employees.

- Are your employees and contractors eligible for super? (see page 6)
- Is your employee eligible to choose their own fund? (see page 8)
- Have you provided eligible employees with a *Standard choice form* (NAT 13080) to nominate their fund within 28 days of starting employment and kept evidence of this? (see page 8)
- Have you started paying super into your new employees chosen fund within two months or by the next due date (whichever is earlier)? (see page 8)
- Have you provided your employee's TFN to their super fund (unless the employee hasn't provided it to you)? (see page 11)

# Paying super

## When to start paying super


You have to pay super for eligible employees from the first day you employ them. This is the case even if the award or contract they're on says there is a qualifying period before you have to start paying. This is because there is no qualifying period under super law.

### Payment dates

You have to pay super to the correct super fund by the cut-off dates each quarter. These dates are listed in the next column. You can make payments more regularly than quarterly if you want. For example, you can pay fortnightly or monthly if you choose, as long as the total amount you owe for the quarter is paid by the quarterly cut-off dates.

Quarter	Quarterly payment cut-off date
<b>1</b> (1 July – 30 September)	28 October
<b>2</b> (1 October – 31 December)	28 January
<b>3</b> (1 January – 31 March)	28 April
<b>4</b> (1 April – 30 June)	28 July

When a cut-off date for payment falls on a Saturday, Sunday or public holiday, payment may be made on the next working day after the cut-off date.

-  **You may also need to meet other super requirements set out in relevant awards and contracts, so look into them to be sure you're doing the right thing.**

## How much to pay

Since 1 July 2008, you have to work out the minimum amount of your employees' superannuation guarantee contributions using their ordinary time earnings. Working out super this way ensures all your employees are treated the same for superannuation guarantee purposes.

If you use an earnings base other than ordinary time earnings to work out your superannuation guarantee contributions and the amount you calculate is less than the minimum 9% of their ordinary time earnings, you'll have to increase this amount to match the minimum 9% of ordinary time earnings. By doing this, you'll avoid the superannuation guarantee charge.

### What are ordinary time earnings?

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

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

### 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 referable to overtime hours as remuneration for overtime hours worked.

- **For more information about what's included or excluded from ordinary time earnings, visit our website at [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'What you need to know' – then select 'How much to pay and when to pay'.**
- **To help you calculate your superannuation guarantee obligation, we have developed an easy-to-use calculator. Visit [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'Calculators, rates and forms' – then select 'Calculators and tools' – 'Superannuation guarantee (SG) contribution calculator'.**

## Employee contributions

Super payments your employees make through your payroll system, after tax has been deducted from their salary or wages, don't count towards your superannuation guarantee obligations. This is the case even if you have arranged for their personal payments to be paid into their super account.

Super payments your employees make to their own super account through a salary sacrifice arrangement can count towards your superannuation guarantee obligations. However, you may choose to pay the full 9% super on top of any salary sacrificed amount made by the employee.

If you have employees who wish to make personal super payments as a payroll deduction, make sure they also give you their TFN to pass it on to their super fund. The super fund cannot accept your employee's personal contribution if it doesn't have their TFN.

### The right timing for your employee super contributions

The contributions you make for your employees won't necessarily count in the financial year that you deduct a salary sacrifice amount or accrue a superannuation guarantee liability. Contributions count when a super fund actually receives your payment.

This means, if you pay your accrued June quarter employer contributions for the 2010–11 financial year in July 2011, they will count towards your employees' contributions for the 2011–12 financial year and you will be entitled to claim a tax deduction for these contributions in the 2011–12 financial year.

Your employees may approach you to change when you make their super contributions so their super fund receives them by a certain time. However, before doing so, we recommend you encourage your employees to contact their fund to work out the running balance of their employer contributions for the year. By doing this, they may find that changing your contributions pattern will cause them to exceed their concessional contributions cap and incur extra tax.

➤ **For more information about the current contributions cap amount and excess contributions tax, visit our website [www.ato.gov.au/supercaps](http://www.ato.gov.au/supercaps)**

**For general information about employer contributions and salary sacrifice, visit [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – ‘In detail’ – then select ‘Salary sacrifice’.**

## Can an employee add to their own super?

Your employees can add to their own super from their pre-tax (salary sacrifice) or after-tax income.

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.

⚠ **If you’re considering offering salary sacrifice arrangements to your employees, you may wish to speak to a suitably qualified professional about the implications the arrangement may have on your business. There is no legal requirement for you to offer a salary sacrifice arrangement to your employees.**

If you offer your employees the option of negotiating a salary sacrifice:

- you can claim a full tax deduction for the amount your employee sacrifices into their super, even if they pay more than the compulsory amount
- the amount your employee sacrifices can count towards the 9% super you have to pay
- your employee will increase their total super benefits and reduce their taxable income.

For the 2009–10 income year and all future years, if you offer your employees the option to salary sacrifice some of their before-tax income as super contributions or if you make additional employer super contributions (including contributions to cover the cost of premiums for insurance cover) for your employees above the compulsory super amount, you will need to report the additional amounts to us on your employee’s payment summary. These amounts are called reportable employer super contributions.

If you are considered an employer under superannuation guarantee law, you will also be considered an employer for the purposes of reportable employer super contributions.

Reportable employer super contributions are those contributions you make on behalf of an employee where all of the following apply:

- your employee influenced the rate or amount of super you contribute for them
- the contributions are in addition to the compulsory contributions you must make under any of the following
  - superannuation guarantee law
  - an industrial agreement
  - the trust deed or governing rules of a super fund
  - a federal, state or territory law.

➤ **For more detailed information about reportable employer super contributions, visit our website at [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) and search for ‘Reportable employer super contributions’.**

⚠ **Remember, payments your employees make from their after-tax income to their super fund don’t count towards the 9% super you have to pay. However, payments they make from their before-tax income through a salary sacrificing arrangement can count.**

⚠ **Your salary sacrificing arrangement has to meet certain requirements.**

⚠ **For more information about setting up a salary sacrifice arrangement and the requirements you must meet, visit our website at [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – ‘In detail’ – then select ‘Salary sacrifice’.**

# When you haven't met your obligations

## What to do when you haven't met your obligations

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.

- **To obtain a copy of the statement and instructions:**
  - visit our website at [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'Calculators, rates and forms' – then select 'Forms and instructions' – 'Completing your Superannuation guarantee charge statement – quarterly'
  - phone us on **1300 720 092**.

## What is the superannuation guarantee charge?

The superannuation guarantee charge is a charge you have to pay to us if you:

- don't pay enough super contributions (at least 9% of an employee's ordinary time earnings) for your eligible 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 eligible employee's chosen super fund (this is called a choice liability)
- pay a super contribution to a fund after the cut-off date for payment.

The superannuation guarantee charge is made up of three parts:

- super guarantee shortfall amounts, including any choice liability
- interest of 10% per annum on the shortfall amount
- an administration fee of \$20 per employee per quarter.

You'll generally be able to offset superannuation guarantee contributions that are paid late to a super fund (see below). You will not be able to claim a tax deduction for these amounts.

### Superannuation guarantee charge statement quarterly due dates

Quarter	Quarterly payment cut-off date
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

**!** The superannuation guarantee charge includes the total amount of super due as at the cut-off date, regardless of any subsequent payments to a super fund.

**>** If you are late paying your employee's super contributions to a super fund, use our Superannuation guarantee charge (SGC) statement and calculator tool. This tool will assist in calculating your SGC liability and prepare the SGC statement that you need to lodge with us.

To access the tool, visit our website at [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'Calculators, rates and forms' – then select 'Calculators and tools' – 'Superannuation guarantee charge statement and calculator tool'.

For more detailed information about other charges and penalties and what to do when you haven't met your super obligations, visit our website at [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'What you need to know' – then select 'What you must do if you haven't met your obligations'.

## Late payment offset

If you pay a contribution to a super fund after the cut-off date, you may be able to use this contribution as an offset against your superannuation guarantee charge liability. This is called the superannuation guarantee late payment offset.

An employer can elect to apply the late payment offset if the late payment is made into a complying super fund before a superannuation guarantee charge assessment is made.

You can only use late contributions to offset the nominal interest and superannuation guarantee shortfall components of the superannuation guarantee charge. You will not be able to offset the administration fee, or other interest or penalties.

**>** For more information on late payment offset, visit our website at [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – 'What you need to know' – then select 'What you must do if you haven't met your obligation'.

# Record keeping and tax deductions

## General rules for record keeping

You can use whichever method suits you best to keep records of your super payments and choice of super fund, with the following limitations:

- your records must be in English (or in a form that is easily accessed and converted into English)
- you must keep your records for five years
- if you keep electronic records, you should use software that is broadly available and can read 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 your superannuation guarantee payments.

## Record keeping for new employees

You need to keep records to show:

- that you're paying your new eligible employees' super contributions
- that you offered each of your eligible employees a choice of fund
- how you calculated reportable employer super contributions for your employees.

You also need to record details of any salary sacrifice arrangements you set up with your employees.

**!** You must also keep the above records for contractors who are eligible for the superannuation guarantee.

## Keeping records of super

### Super payments

Your records of the super payments you make should clearly show the amount of super you paid for each employee and how you worked out that amount. You should also keep records of any information that helped you work out the amount of super you paid – this may include advice from trustees of super funds to which you're making payments.

If you ever incur a superannuation guarantee charge, you also have to keep records of the amount you paid and how you worked out that amount.

- ❗ **If you pay super under an award, the records you have to keep may differ. This may include reporting your super payments on your employees' payslips.**
- ➔ **For more information, visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or phone the Fair Work infoline on 13 13 94.**

When you enter into a salary sacrifice agreement, you need to keep relevant documentation for five years. This includes:

- copies of your agreement
- documents showing any expenses.

### Choice of super fund

You need to maintain records that show you have offered your eligible employees a choice of super fund. These records include:

- evidence that shows you provided the Standard choice form to all your eligible employees
  - the written information your employees provide when they nominate a fund
  - receipts (or other documents issued by the funds) showing you have made super payments for your employees to their chosen funds
  - confirmation that your fund meets the insurance requirements
  - details of employees who don't have to be offered a choice of super fund.
- ➔ **If your employee asks you for more information about their super entitlements, you can give them or refer them to:**
- *Super – what you need to know* (NAT 71039)
  - *Super and your retirement* (NAT 71040)

**To obtain copies of these publications, refer to page 22 at the back of this guide.**

## Tax deductions

You can claim a full tax deduction for super payments you make for employees under the age of 75 (and if the contribution is made within 28 days of the employee turning 75), if they are made by the required due date. Super payments are tax deductible in the financial year they are received by the super fund.

In most cases, you can also claim a tax deduction for super payments you make for employees who are 75 years old or over, if you have to make the payments because your employee is under an industrial award, determination or notional agreement preserving state awards.

- !** Only super contributions paid for an eligible employee by the cut-off date (including contractors paid principally for their labour) are tax deductible. Remember, you can't claim tax deductions for penalties you pay, such as the superannuation guarantee charge.

## Check what you know

We've put together the following checklist for you to use to be sure you're aware of everything you need to know about paying super and keeping good records.

- Are you making superannuation guarantee payments on time and avoiding the superannuation guarantee charge? (see page 13)
- Are you paying the correct amount of superannuation guarantee for your eligible employees? (see page 14)
- Do you know how to pay the superannuation guarantee charge if you have to? (see page 16)
- Have you kept records of your super payments? (see page 18)
- Are you entitled to a tax deduction? (see page 20)

# More information

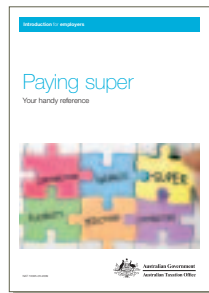
## Publications

We have developed the following publications about super.

This introduction provides basic information about your obligations under super guarantee law. It is particularly useful if you are a new employer.



The introduction ***Paying super (NAT 72035)*** provides a brief overview of your super obligations as an employer. It is a handy reference guide to keep nearby.



## For employers

- *Paying super – your handy reference* (NAT 72035)

## For employees

- *Super – what you need to know* (NAT 71039)
- *Super and your retirement* (NAT 71040)

## Super forms & instructions for employers

- *Standard choice form* (NAT 13080)
- *Completing your Superannuation guarantee charge statement – quarterly* (NAT 9600)
- *Superannuation guarantee charge statement – quarterly* (NAT 9599)
- *Completing your Super guarantee late payment offset election* (NAT 14899)

## Other publications that may help you understand your tax obligations

- *Tax basics for small business* (NAT 1908)
- *Record keeping for small business* (NAT 3029)
- *Essential information about PAYG withholding* (NAT 5195)

## Web-based decision tools and calculators

To use the following tools and calculators, visit our website at [www.ato.gov.au/employersuper](http://www.ato.gov.au/employersuper) – ‘Calculators, rates and forms’ – then select ‘Calculators and tools’.

- **Employee/contractor decision tool.** This helps you work out whether your new or existing workers are contractors or employees.
- **Superannuation guarantee (SG) contributions calculator.** This calculates how much super you need to contribute for your eligible workers.
- **Superannuation guarantee eligibility decision tool.** This helps you work out if you need to make super contributions for your workers.
- **Superannuation guarantee charge statement and calculator tool.** If you don’t meet your super obligations, this helps you to work out the superannuation guarantee charge amounts you owe for your employees and to prepare the superannuation guarantee charge statement you need to lodge with us.

You can also find the Employment termination payment calculator on our website by visiting [www.ato.gov.au/businesses](http://www.ato.gov.au/businesses) – ‘What do you want to do?’ – ‘Find a rate or calculator’ – ‘List all rates and calculators’

- **Employment termination payment calculator.** This will help you calculate:
  - employment termination payments on or after 1 July 2007
  - the number of employment days pre and post 1 July 1983
  - the tax-free and taxable components of an employment termination payment.

## Useful services

To obtain copies of our publications or for more information:

- visit our website at **[www.ato.gov.au](http://www.ato.gov.au)**
- subscribe to 'What's New' at **[www.ato.gov.au](http://www.ato.gov.au)** to receive regular updates
- phone us on **13 10 20** between 8.00am and 6.00pm, Monday to Friday, to speak to a tax officer
- phone us on **1300 720 092** for copies of our publications
- write to us at

**Australian Taxation Office**  
**PO Box 3100**  
**PENRITH NSW 2740**

If you do not speak English well and need help from the ATO, phone the Translating and Interpreting Service on **13 14 50**.

If you are deaf, or have a hearing or speech impairment, phone the ATO through the National Relay Service (NRS) on the numbers listed below:

- TTY users, phone **13 36 77** and ask for the ATO number you need
- Speak and Listen (speech-to-speech relay) users, phone **1300 555 727** and ask for the ATO number you need
- internet relay users, connect to the NRS on **[www.relayservice.com.au](http://www.relayservice.com.au)** and ask for the ATO number you need.

## Free seminars and on-site visits

If you are thinking about starting or running a business, you will benefit from our free seminar and on-site visits. On-site visits are available in all capital cities and most regional areas. For more information or to register for a seminar:

- visit **[www.ato.gov.au/seminars](http://www.ato.gov.au/seminars)**
- phone **1300 661 104**, Monday to Friday 8.00am to 6.00pm.

To arrange a visit:

- use our online booking form at **[www.ato.gov.au/assistancevisit](http://www.ato.gov.au/assistancevisit)**
- phone **13 28 66** during business hours.





