Australian Government
Australian Taxation Office

Law Companion Ruling compendium – LCR 2026/3

Relying on this Compendium

This Compendium of comments summarises and provides responses to submissions received during public consultation on draft Law Companion Ruling LCR 2026/D3 *Payday Super: calculation and assessment of superannuation guarantee charge*. It is intended to promote transparency and explain how stakeholder feedback was considered in finalising the document only.

It is not a publication that has been approved to allow you to rely on it for any purpose and is not intended to provide you with advice or guidance, nor does it set out the ATO's general administrative practice. Therefore, this Compendium does not provide protection from primary tax, penalties or interest for any taxpayer that purports to rely on any views expressed in it.

Consultation period: 18 March 2026 to 1 May 2026

We thank all submitters for their time and contributions.

Summary of issues raised and responses

All legislative references in this Compendium are to the *Superannuation Guarantee (Administration) Act 1992* (SGAA), unless otherwise indicated.

Issue 1 – clarify the binding status of the Ruling

Paragraph or section of draft product

Relying on this Ruling

Issue raised

Clarification is required on the level of protection offered by the final Ruling.

ATO response

Superannuation guarantee (SG) charge, and the provisions of the SGAA, do not fall within the formal legislative framework for rulings in Part 5-5 of Schedule 1 to the *Taxation Administration Act 1953*. The final Ruling provides that the Ruling is considered administratively binding on the Commissioner.

Outcome

Clarified

Issue 2 – timing of publication of final Ruling

Paragraph or section of draft product

Not applicable – relevant to document finalisation

Issue raised

The ATO should prioritise early finalisation and publication of the final Ruling to allow employers, payroll providers and superannuation funds sufficient time to implement compliant systems and processes.

ATO response

We acknowledge the importance of providing timely and clear guidance to support implementation of the Payday Super reforms. We sought to publish the draft Ruling as quickly as possible, to ensure stakeholders had visibility of our preliminary views in preparing for the commencement of Payday Super.

We recognise that employers, payroll providers and superannuation funds rely on this guidance to design and implement systems, processes and controls in advance of commencement.

We have finalised the Ruling as soon as practicable, having regard to stakeholder feedback and the need to ensure the guidance accurately reflects the legislative framework and its intended operation.

The timing of publication has balanced the need to provide early certainty with the need to ensure the guidance is accurate, complete and informed by consultation.

Outcome

No change

Issue 3 – structure and usability of the ruling

Paragraph or section of draft product

Not applicable – relevant to document scope and structure

Issue raised

The final Ruling could be made easier to navigate and apply in practice, particularly for small and medium employers, through improvements to its structure, presentation, diagrams and timelines.

Most examples in the Ruling are based on single employee scenarios and do not reflect the way employers manage obligations in practice across multiple employees.

ATO response

The final Ruling has been updated to improve clarity and understanding and there have been some structural improvements, particularly in relation to the explanation of the administrative uplift amount.

In the final Ruling, the explanation of each component of the calculation and assessment process is accompanied by one or more examples that usually involve one employee. We think that this is the best way to explain these concepts as clearly as possible, particularly as all the components of an SG shortfall, other than the administrative uplift amount, are calculated on an individual employee level. However, Example 16 of the final Ruling is designed as a practical application of the whole of the SG charge calculation and assessment process and, for this purpose, uses multiple employees.

Outcome

Clarified

Issue 4 – when a voluntary disclosure statement can be made

Paragraph or section of draft product

Paragraph 87

Issue raised

Paragraph 87 of the draft Ruling explains that an employer may lodge a voluntary disclosure statement at any time before the day the Commissioner makes an assessment of the superannuation guarantee (SG) shortfall for a QE day (the day an employer makes a payment of qualifying earnings to or for an employee). Given that lodging a valid voluntary disclosure statement can reduce the administrative uplift amount, it would be useful to provide additional guidance as to when a voluntary disclosure statement can be made. For example, whether it can be made if an SG audit has commenced but prior to an assessment being made, whether it can be made after an estimate of SG charge liability under subsection 268-10(1) of Schedule 1 to the *Taxation Administration Act 1953* (TAA) but prior to an assessment being made.

It is unclear whether an estimate constitutes an assessment made under subsection 36(1). On the basis that it is not an assessment for the purpose of subsection 36(1), a valid voluntary disclosure statement could be made after an estimate is made.

ATO response

Paragraph 158 of the final Ruling clarifies that an employer may lodge a voluntary disclosure statement for a QE day if the Commissioner has commenced compliance activities but has not yet made an SG charge assessment for the QE day.

An estimate does not constitute an SG charge assessment under subsection 36(1). It is a separate and distinct liability arising under section 268-20 of Schedule 1 to the TAA. If an estimate of SG charge is made for a QE day, as long as the Commissioner has not made an SG charge assessment for that QE day, there is nothing to prevent an employer from lodging a voluntary disclosure statement for the same QE day.

Paragraph 118 of the final Ruling clarifies that an estimate liability arises under a separate provision to an SG charge assessment under subsection 36(1).

Outcome

Clarified

Issue 5 – when will a Commissioner-initiated assessment be ‘in force’

Paragraph or section of draft product

Paragraph 91

Issue raised

The draft Ruling does not provide sufficient guidance in relation to when a Commissioner-initiated assessment will be considered ‘in force’ for the purposes of determining whether the administrative uplift amount may be reduced. For example, guidance could be provided on whether an assessment is ‘in force’ if:

- the Commissioner has issued an amended assessment under section 37 with respect to the same QE day
- it is later determined that the assessment was raised in error or in respect to an incorrect QE day
- the assessment is later set aside or substituted following an objection or appeal.

A broad interpretation of the phrase ‘in force’ is not supported, under which it might be argued that an assessment, once made, will always be in force for these purposes.

ATO response

We acknowledge the feedback regarding the interpretation of ‘in force’. The comments raise broader issues concerning the operation and administration of subsection 13C(1) of the *Superannuation Guarantee (Administration) Regulations 2018* (SGAR) which require further consideration. As employers need certainty on other aspects of the calculation and assessment process under Payday Super as soon as possible, we have finalised the Ruling without providing any further content with respect to this issue. We will update the final Ruling with further guidance on the operation of subsection 13C(1) of the SGAR as soon as practicable.

Outcome

No change

Issue 6 – voluntary disclosure statements

Paragraph or section of draft product

Paragraph 92

Issue raised

Paragraph 92 of the draft Ruling suggests that a voluntary disclosure statement is invalid unless it includes both the date of payment and receipt of contribution by the fund. It further implies that an employer cannot lodge a valid voluntary disclosure statement unless a late contribution has already been made.

The paragraph should be amended in the final Ruling to clarify that employers may lodge a valid voluntary disclosure statement to disclose an SG shortfall even where no late contribution has been made. If a late contribution has been made, the paragraph should clarify that the statement can include either or both the receipt or payment day.

ATO response

The voluntary disclosure statement must be made in the approved form. We agree that subsection 33(3) refers to the statement being able to include either or both the payment date or receipt date. We also agree that an employer may make a voluntary disclosure statement even if the employer has not made a late contribution.

The wording in paragraph 116 of the final Ruling clarifies the operation of subsection 33(3). Further, paragraph 111 of the final Ruling clarifies that a voluntary disclosure statement may be lodged whether or not a late contribution has been made to an employee's superannuation fund.

Outcome

Clarified

Issue 7 – when a payment of qualifying earnings is made

Paragraph or section of draft product

Paragraphs 17 and 18

Issue raised

Multiple dates to consider

Most employees are paid electronically but the payment system is not instantaneous. For example, an employee who is a customer of one of 'the Big 4' banks will often be paid the day before customers of smaller financial institutions. As such, where an employer is bound by an award or agreement to pay on a specific day of the week, they are required to process the payment a day (or maybe 2) earlier than the payroll processing date to ensure everyone receives the payment no later than the prescribed date.

This could result in up to 4 different days to consider: the date the employer actions the payroll and instigates payment, the date first employees receive payment, the date subsequent employees receive their payment for the same period or the date payroll is treated as processed for Single Touch Payroll (STP) purposes.

The final Ruling should clarify that the phrase ‘the employer makes a payment’ is interpreted to be the date the employer intends for the employee to receive payment. For example, where an award requires payment every Wednesday, if the employer initiates the funds to leave their bank 1 to 2 days early, but the STP file is processed with a Wednesday date, this is the date that should be taken as the QE day. This would align STP reporting (which is visible to the ATO) to the employer’s QE day, allowing for essential data matching.

The final Ruling should include practical examples and explain how compliance activity will be approached where system misalignment occurs, and amend the date of payment to ensure clarity.

Irregular or lump sum payments

Many micro-businesses, small professional practices, and closely held entities operate with variable or irregular remuneration patterns that are driven by cashflow rather than fixed payroll cycles. This can include business owners and key staff being paid in irregular lump sums, or at variable intervals, rather than on a consistent weekly or monthly basis.

Clear examples, confirming compliance outcomes for irregular or lump-sum payments provided contributions are made in accordance with the Payday Super timing rules when earnings are paid, would materially reduce confusion for micro-businesses and small employers, and reduce the risk of unnecessary or impractical changes to longstanding payment practices.

ATO response

Under subsection 17A(1), a QE day is the day on which the employer *makes a payment* of qualifying earnings to the employee. An employer makes a payment of qualifying earnings to, or for, an employee on the day that the payment leaves the account of the employer, or the account of an entity that makes the payment on behalf of the employer (payroll entity), to be transferred to the employee’s account, or to another entity at the employee’s direction. In many cases, this will be the same day that an employer’s STP report is lodged. However, these days may differ if the employer has a longer period to report the payment for STP purposes.

If a payment of qualifying earnings leaves the employer, or payroll entity’s, account on a day that is before the day that they intend for the employee to receive the payment, the day that the payment leaves the employer or payroll entity’s account is the QE day.

Paragraphs 17 to 21 of the final Ruling now clearly explain this issue and the consequences for the employer.

New Examples 1 and 2 at paragraphs 22 to 27 of the final Ruling illustrate the identification of the QE day.

Outcome

Clarified

Issue 8 – calculation of the notional earnings component

Paragraph or section of draft product

Paragraphs 74 and 77

Issue raised

The intention of the notional earnings calculation is that interest will accrue on the individual base SG shortfall until the entire individual final SG shortfall is reduced to nil. The final Ruling should clarify the exact number of days that would be in the notional earnings calculation, as well as the fact that the notional earnings component is calculated by reference calendar days.

It would also be helpful for the final Ruling to clarify how notional earnings accrues in circumstances where a contribution is paid partially on time and partially late. Employers and advisers require clarity on whether interest accrues separately on each unpaid balance on a daily basis, and how subsequent payments interact with that accrual, to ensure assessments can be reliably verified and reconciled.

ATO response

Paragraph 84 of the final Ruling now includes a reference to calendar days. Paragraphs 91, 94 and 176 to 178 of the final Ruling also include the number of calendar days in the calculations of the individual notional earnings components for the relevant examples.

The notional earnings component accrues in relation to the *individual base SG shortfall*. As such, where a contribution is paid partially on time and partially late, the individual notional earnings component accrues on the individual SG amount for the employee for the QE day, less the on-time contribution payment. This is the individual base SG shortfall. The notional earnings accrue on that amount from the first day of the late period until the day that the late contribution is received by the superannuation fund, provided that the late contribution reduces the individual final SG shortfall for the employee for the QE day to nil. If the late contribution does not reduce the individual final SG shortfall to nil, the individual notional earnings component will continue to accrue on the individual base SG shortfall until a further late contribution reduces the individual final SG shortfall to nil or, if no such contribution is made, until the day before an SG charge assessment is made for the QE day.

For a worked example, see paragraph 177 of the final Ruling (in Example 16) where the individual notional earnings component is calculated for the employee, Ella, whose employer has made a partial on-time and partial late contribution for the QE day.

Outcome

Clarified

Issue 9 – assessment based on voluntary disclosure statement versus Commissioner-initiated assessment

Paragraph or section of draft product

Paragraphs 133 to 134

Issue raised

It would be useful for there to be additional commentary in the final Ruling around what the ATO considers to be a 'Commissioner-initiated assessment'. For example, where the ATO makes an initial enquiry that prompts a voluntary disclosure statement by an employer, the final Ruling should confirm whether this will be accepted as a voluntary disclosure statement. Also, the final Ruling should clarify whether it will be considered a 'Commissioner-initiated assessment' if a taxpayer lodges a voluntary disclosure statement, but subsequent follow-up by the ATO results in some changes from the initial disclosure.

Practical examples illustrating what constitutes a Commissioner-initiated assessment, as distinct from voluntary compliance activity, would materially assist employers in managing disclosure decisions and understanding the impact on administrative uplift outcomes.

ATO response

Paragraph 158 of the final Ruling clarifies that, if a voluntary disclosure statement is lodged as a result of, or during, compliance activity, and the SG charge assessment is made based on the voluntary disclosure statement, it will not be considered to be an assessment initiated by the Commissioner.

Paragraph 155 of the final Ruling also explains that, where the Commissioner makes an SG charge assessment that is understood to be based on the information in a voluntary disclosure statement and later becomes aware that the information was incorrect, the Commissioner may amend the SG charge assessment. In these circumstances, provided the original statement was a valid voluntary disclosure statement, the original assessment will continue to be an assessment based on information in a voluntary disclosure statement.

Outcome

Clarified

Issue 10 – additional examples

Paragraph or section of draft product

Not applicable – relevant to document scope and structure

Issue raised

The following additional examples are proposed for inclusion in the final Ruling.

Late payments and the interaction with the notional earnings component and administrative uplift amount

The calculation of the SG charge under Payday Super differs fundamentally from the quarterly regime. It would be useful to include an example that:

- tracks a running SG shortfall across multiple QE days
- demonstrates how late contributions reduce the shortfall, and
- illustrates the interaction with the notional earnings component and administrative uplift amount.

ATO correspondence, including SG charge notices, is issued on an employer-wide basis and commonly includes employee-by-employee calculations. One or more examples should be structured in a manner that closely aligns with the format and tables used in ATO SG charge correspondence. That correspondence should include detailed tables showing the individual SG amount, the on-time contributions, individual base SG shortfalls, late payments and individual final SG shortfalls.

Inbound employees paid through a foreign payroll (timing and compliance)

Given the event-based nature of Payday Super and its reliance on payroll and payment timing, uncertainty in relation to inbound and outbound expatriate arrangements presents material compliance risk for employers. The final Ruling should include additional explanatory guidance and illustrative examples dealing specifically with expatriate and cross-border employment fact patterns. Specifically, it is recommended that the following example be included:

> *A multinational group employer seconds an employee to work in Australia for 8 months. The employee performs their duties physically in Australia for the Australian host entity. Salary continues to be processed and paid through an offshore payroll (for example, the home country payroll), with the host entity recharging costs within the group.*

There appears to be no concessions to extend the requirement to pay the superannuation contributions within 7 business days of the QE day. A practical example of how foreign employers can comply with the new obligation should be included in the final Ruling.

ATO response

Late payments and the interaction with notional earnings component and administrative uplift amount

Example 16 of the final Ruling is designed to demonstrate the whole of the SG charge calculation and assessment process. It is essentially a step-by-step worked example of the concepts discussed in the Ruling. It considers a scenario where there are multiple employees and demonstrates how on-time and late contributions affect the individual base and final SG shortfalls for each of the employees for the QE day. It also covers the calculation of the notional earnings component and administrative uplift amount. The tables in Example 16 clearly itemise the amounts relevant to each component of the SG charge calculation and assessment on an employee-by-employee basis.

We consider that this example provides a good foundation for employers to understand how the law will work under the new law compared to the quarterly regime.

Inbound and outbound expatriate arrangements

An employer makes a payment of qualifying earnings to, or for, an employee on the day that the payment leaves the account of the employer, or the account of an entity that makes a payment on behalf of the employer (payroll entity), to be transferred to the employee's account, or to another entity at the employee's direction. The employer then has 7 business days after the QE day (or an allowable longer period where applicable) for an eligible contribution to be received by the employee's superannuation fund and allocated to the employee's account for that contribution to be considered 'on-time'.

What constitutes an on-time contribution is prescribed by law. The Commissioner has no discretion to treat contributions received by an employee's superannuation fund outside of these periods as on-time contributions.

Example 7 has been included at paragraphs 56 to 63 of the final Ruling to provide an example identifying the QE day for a foreign entity that makes payments of qualifying earnings for an employee performing work in Australia, and confirms that the usual period of 7 business days after the QE day will apply for making on-time contributions if none of the specific circumstances listed in paragraph 45 of the final Ruling exist.

Outcome

Clarified

Issue 11 – clarifying how the administrative uplift amount applies

Paragraph or section of draft product

Paragraphs 83 to 96 and Example 11

Issue raised

The draft Ruling does not clearly explain, in a logical sequence, how an employer should determine whether an administrative uplift amount applies, how it is calculated, and how it interacts with other concepts such as voluntary disclosures, Commissioner-initiated assessments and reductions of liability. Readers are required to move back and forth between multiple paragraphs to piece together the intended operation.

Concepts such as ‘in force’, reductions expressed in percentage terms, and interactions between different assessment pathways are introduced, without sufficient explanation of how they fit together. This complexity makes it difficult for employers and advisers to assess risk, decide whether and when to make disclosures, or explain the consequences of non-compliance to management.

The administrative uplift amount section should be rewritten using a step-by-step explanatory format. In particular, the final Ruling could clearly set out, at a high level, the purpose of the administrative uplift amount, and explain, in sequence, the following:

- when the administrative uplift amount is triggered
- whether it applies automatically or is contingent on particular ATO actions
- how the initial administrative uplift amount (before reductions) is calculated
- how voluntary disclosure affects the amount of uplift (if at all)
- how and when reductions may apply, and
- whether past or current assessments are ‘in force’ for the purposes of the uplift calculation.

ATO response

The section of the final Ruling dealing with the administrative uplift amount (paragraphs 100 to 118) has been restructured to improve clarity.

Outcome

Clarified

Issue 12 – self-managed superannuation funds – lack of employer visibility

Paragraph or section of draft product

Not applicable – relevant to document scope

Issue raised

Employers contributing to self-managed superannuation funds (SMSFs) often have no way of knowing whether a contribution has been allocated in a timely manner. This makes the 'able to be allocated' standard difficult to evidence.

The final Ruling should acknowledge SMSFs as a structural exception and provide tailored safe harbours.

ATO response

The Commissioner has no discretion to provide a 'safe harbour' for late contributions under the SGAA. If a contribution is late in respect of an employee for a QE day, individual notional earnings will start accruing and will be payable if an SG charge assessment is made. However, the ATO will be applying a risk-based approach to identifying errors and making SG charge assessments.

In addition, the statutory test relates to when the contribution is received by the superannuation fund and is able to be allocated. It does not matter, for the purposes of the SGAA, if the actual allocation by the superannuation fund occurs later. With respect to SMSFs, we consider that if an employer provides the following information to the SMSF, and pays the contribution so it is received by the fund, within the prescribed timeframes, an employer has done all they can to ensure that a contribution is able to be allocated within those timeframes:

- message sender and message receiver details
- details of both the payer and payee, and payment details, including the payment reference number
- employer details, including employer name, employer Australian business number, and any fund-generated employer identifier, if held
- member details, including the member's legal name, date of birth, sex, address, tax file number (TFN) information or TFN-not-provided indicator, member or client identifier if available, and payroll number if used
- pay period start and end dates, and
- contribution amount details, including superannuation guarantee amounts, award or productivity amounts, salary sacrifice amounts, voluntary employer amounts, personal contribution amounts, spouse or child amounts and other third-party contribution amounts, where relevant.

Outcome

No change

Issue 13 – unclear timing of Commissioner-initiated assessments

Paragraph or section of draft product

Paragraphs 67, 133 and 134

Issue raised

The draft Ruling does not address when the Commissioner will make an assessment of an employer's SG shortfall for a QE day. Without this, employers cannot predict the timing of assessments or plan voluntary disclosure processes effectively.

The final Ruling should clarify the timing of Commissioner-initiated assessments, including the sequence in which assessments are made relative to employer-initiated processes such as voluntary disclosure statements.

ATO response

Paragraph 148 of the final Ruling explains that the Commissioner may make an SG charge assessment at any time. It also explains that, for this reason, there is no time limit on when the Commissioner may make an initial SG charge assessment for a QE day. The timing of an SG charge assessment will depend on a number of factors, including if, and when, a voluntary disclosure statement is made. If an employer becomes aware that they have an individual final SG shortfall for one or more employees for a QE day, but have not received an SG charge assessment, they should make late contributions to their employees' superannuation funds. They may also choose to make a voluntary disclosure statement.

Outcome

No change

Issue 14 – operation of the deeming rule for individual notional earnings component

Paragraph or section of draft product

Paragraph 70

Issue raised

The draft Ruling does not specify what that deemed date is for the calculation of the notional earnings component, leaving the provision incomplete for practical application. The final Ruling should expressly state that the deemed day when a voluntary disclosure statement is made is 7 business days from the payment day for the eligible contribution, consistent with the intent of the deeming rule as described in the Explanatory Memorandum for the Treasury Laws Amendment (Payday Superannuation) Bill 2025. This detail will ensure the voluntary disclosure statement process is clear and can be applied consistently.

ATO response

Paragraph 87 of the final Ruling states that, if an employer lodges a voluntary disclosure statement that includes the date the employer paid a late contribution, and does not include the date the contribution was received by the employee's superannuation fund, the contribution is taken to have been received by the fund 7 business days after the day the contribution was paid. The deeming rule only operates in those specific circumstances. This reflects the statutory text in subsection 36(3).

Outcome

No change

Issue 15 – calculation of notional earnings and choice loading components

Paragraph or section of draft product

Paragraphs 64 to 71 and 103 to 113

Issue raised

The draft Ruling does not explain how payments are allocated in the event that an employer, realising that an SG shortfall has occurred, immediately pays any further amounts that would, in the event that the Commissioner makes an assessment, be payable and whether such an employer is required to make a voluntary disclosure statement.

Specifically, if an employer has one or more individual base SG shortfalls for a QE day, can an employer pay an amount equivalent to the notional earnings component to the employee's superannuation fund in addition to a late contribution, so as to reduce any SG shortfall for the employee for the QE day?

Likewise, if an employer identifies a failure to apply correct choice options, can the employer self-assess and pay the equivalent of the choice loading to the employee's correct superannuation fund?

ATO response

The notional earnings and choice loading components form part of the SG charge assessment and are calculated by the Commissioner. An employer cannot pre-emptively calculate these amounts and pay them to the employee's superannuation fund prior to an assessment being made. Contributions to an employee's superannuation fund cannot offset or otherwise be taken into account in the calculation of these components under the SGAA. Where the employer becomes aware of an error, they may lodge a voluntary disclosure statement and pay any individual final SG shortfall to the employee's superannuation fund.

Paragraphs 88 and 136 of the final Ruling make clear that these components form part of the SG charge assessment and are calculated by the Commissioner.

Outcome

Clarified

Issue 16 – allocation of contributions

Paragraph or section of draft product

Not applicable – relevant to document scope

Issue raised

The draft Ruling could be read as implying that the superannuation funds apply contributions to the QE day. In practice, funds apply contributions based on the day of receipt. There is no mechanism for the fund to apply a contribution to a QE day as the QE day is not recorded.

It may be helpful for the final Ruling to clarify that the allocation of eligible contributions to a QE day is an ATO process and is not typically a fund allocation or data-field construct.

ATO response

The allocation of eligible contributions is prescribed by law. Eligible contributions are automatically applied under the law to the earliest QE day where there is an individual base SG shortfall prior to an SG charge assessment being made. It does not require any action on behalf of anyone. This process is explained at paragraphs 32 to 33 of Law Companion Ruling LCR 2026/2 *Payday Super: eligible contributions*. The ATO uses reported data to ascertain the position of an employer under the law in respect of eligible contributions and QE days.

Outcome

No change

Date of publication: 5 August 2026