



SGD 94/1 - How do the exemptions under sections 27 and 28 interact?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *27 January 1994*

Superannuation Guarantee Determinations do not have the force of law. Each decision made by the Australian Taxation Office is made on the merits of each individual case having regard to any relevant Determinations and Rulings.

Superannuation Guarantee Determination

How do the exemptions under sections 27 and 28 interact?

1. Salary or wages excluded by subsection 27(1) and section 28 of the *Superannuation Guarantee (Administration) Act 1992* (SGAA) are still taken into account when calculating the total amount of salary or wages paid in the month for the purposes of subsection 27(2) of the SGAA.
2. This is because they are excluded only for the purpose of making a calculation under sections 18 or 19, not for the purpose of making a calculation under subsection 27(2).

Example 1

During the four weeks of August, Kelly was paid \$200 per week, totalling \$800 for the month. She turned 65 in the second week of the month. As Kelly was paid over \$450 for the month, her employer is required either to make contributions on her behalf or to pay the charge. The contributions or the charge would only be based on the earnings paid in the week when Kelly was under 65 years of age, ie. \$200.

Example 2

Brenda is 17 and works part time for a small boutique. In September she was paid \$810 over 4 weeks, as follows:

<i>Week</i>	<i>Hours</i>	<i>Wage</i>
<i>1</i>	<i>25</i>	<i>200</i>
<i>2</i>	<i>15</i>	<i>110</i>
<i>3</i>	<i>35</i>	<i>340</i>
<i>4</i>	<i>20</i>	<i>160</i>

As Brenda was paid over \$450 in the month, her employer must either make contributions on her behalf or pay the charge. The contributions or the charge would only be based on the earnings paid in the week where Brenda worked more than 30 hours, ie. \$340, because the amounts paid in the other weeks are excluded by section 28.

If Brenda was paid the total amount of \$810 in week 4 instead of receiving weekly payments, the answer would still be the same. In this situation Brenda is still a part time employee in the weeks in which she is employed to work not more than 30 hours per week. Because she is under 18, this means that any payments for work in respect of the weeks when she works less than 30 hours, are excluded by section 28 regardless of when they are paid.

Commissioner of Taxation

27/1/94

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Related Rulings:

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