


SGR 2009/1A2 - Addendum - Superannuation guarantee: payments made to sportspersons

 This cover sheet is provided for information only. It does not form part of *SGR 2009/1A2 - Addendum - Superannuation guarantee: payments made to sportspersons*

 View the [consolidated version](#) for this notice.



Addendum

Superannuation Guarantee Ruling

Superannuation guarantee: payments made to sportspersons

This Addendum amends Superannuation Guarantee Ruling SGR 2009/1 due to developments in the law. In particular, the following recent Administrative Appeals Tribunal and Federal Court decisions support the Commissioner's views in SGR 2009/1:

- *Commissioner of Taxation v Racing Queensland Board* [2019] FCAFC 224
- *Commissioner of Taxation v Scone Race Club Limited* [2019] FCAFC 225, and
- *General Aviation Maintenance Pty Ltd and Commissioner of Taxation* [2012] AATA 120.

Amendments made to SGR 2009/1 by this Addendum are in the nature of adding citations for, or illustrations of, the Commissioner's views. They do not change the effect of the Ruling.

SGR 2009/1 has also been updated to reflect that the '70 years of age or over exception', formerly contained in subsection 27(1)(a) of the *Superannuation Guarantee (Administration) Act 1992*, was repealed from 1 July 2013 by the *Superannuation Guarantee (Administration) Amendment Act 2012*.

SGR 2009/1 is amended as follows:

1. Paragraph 69

After the words 'paragraphs 83-84' in footnote 37, insert:

, and *General Aviation Maintenance Pty Ltd and Commissioner of Taxation* [2012] AATA 120 (*General Aviation*) at [30]

2. Paragraph 82

At the end of the second sentence, insert new footnote 40A:

^{40A} In *General Aviation* at [30], it was found that the Tandem Master's video recording of skydives was a service covered by either paragraph 12(8)(b) or (c).

3. Paragraph 85

(a) At the end of the first sentence, insert new footnote 41A:

^{41A} See *Commissioner of Taxation v Racing Queensland Board* [2019] FCAFC 224 at [50–52], and *Commissioner of Taxation v Scone Race Club Limited* [2019] FCAFC 225 at [10–11], per Griffiths J (adopted by Steward J at [82] and [84], whose reasons were agreed with by Derrington J at [80]).

- (b) Omit each instance of the word 'making'; substitute 'liable to make'.

4. Paragraph 124

- (a) Omit the words 'exclusions for salary or wages paid to employees who are 70 years of age or over and'.
- (b) Omit footnote 70.

This Addendum applies on and from the date of issue.

Commissioner of Taxation

3 November 2021

ATO references

NO: 1-NCD9OT4
ISSN: 2205-619X
BSL: SEO
ATOLaw topic: Superannuation ~~ Employers ~~ Who is an employee
Superannuation ~~ Employers ~~ Meaning of salary and wages

© AUSTRALIAN TAXATION OFFICE FOR THE COMMONWEALTH OF AUSTRALIA

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).