

SGR 2009/2A2 - Addendum - Superannuation guarantee: meaning of the terms 'ordinary time earnings' and 'salary or wages'

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Addendum

Superannuation Guarantee Ruling

Superannuation guarantee: meaning of the terms ‘ordinary time earnings’ and ‘salary and wages’

This Addendum amends Superannuation Guarantee Ruling SGR 2009/2 to reflect the repeal of the *Superannuation Guarantee (Administration) Regulations 1993* and its remake via the *Superannuation Guarantee (Administration) Regulations 2018*.

The Addendum also reflects changes made to subsection 27(2) of the *Superannuation Guarantee (Administration) Act 1992* (SGAA) by the *Treasury Laws Amendment (Enhancing Superannuation Outcomes for Australians and Helping Australian Businesses Invest) Act 2022*. Section 27 of the SGAA specifies salary or wages that are not to be taken into account for the purposes of calculating an individual superannuation guarantee shortfall under section 19 of the SGAA.

SGR 2009/2 is amended as follows:

1. Preamble

- (a) Omit both instances of ‘ruling’; substitute ‘Ruling’.
- (b) Omit ‘Tax Office Legal Database’; substitute ‘Legal database’.

2. Paragraph 6

Omit ‘SGR 94/4 and SGR 94/5’; substitute ‘SGR 94/4 *Superannuation guarantee: ordinary time earnings* and SGR 94/5 *Superannuation guarantee: salary or wages*’.

3. Paragraph 9

Before the diagram, insert caption ‘Diagram 1: Relationship between OTE and salary or wages’.

4. Paragraph 34

Omit ‘Regulation 7AD of the Superannuation Guarantee (Administration) Regulations 1993’; substitute ‘section 12 of the *Superannuation Guarantee (Administration) Regulations 2018*’.

5. Paragraph 37

Omit ‘Regulation 7AD’; substitute ‘section 12’.

6. Paragraph 51

Omit 'he or she achieves'; substitute 'they achieve'.

7. Paragraph 57

(a) Omit the second heading; substitute:

Private or domestic work 30 hours per week or less

(b) After 'SGR 2005/1', insert '*Superannuation guarantee: who is an employee?*'

8. Paragraph 59A

(a) Omit the first and seventh dot points.

(b) Omit the wording of footnote 5A; substitute:

The only employees currently prescribed for this purpose are those who hold certain kinds of visas or entry permits under the *Migration Act 1958* and the *Migration Regulations 1994* and who also meet certain other criteria relating to their employment: see section 11 of the SGAR.

9. Paragraph 59B

(a) Omit 'regulation 7AD of the SGAR'; substitute 'section 12 of the SGAR'.

(b) Omit 'The regulation'; substitute 'Section 5 of the SGAR'.

10. Paragraph 59C

(a) Omit the first sentence, substitute:

Payments of salary or wages funded by a payment to the employer under the Commonwealth program known as the Aged Care Workforce Retention Grant Opportunity are prescribed for the purposes of paragraph 27(1)(e): see paragraph 12(1)(f) of the SGAR.

(b) In the second sentence, omit 'regulation 7AC'; substitute 'section 12'.

11. Paragraph 71

Omit 'Income Tax Ruling IT 2307'; substitute 'Taxation Ruling IT 2307 *Income Tax: Assessability of lump sum payment made under contract to play football: covenant in contract that taxpayer not engage in competitive footrunning during term of contract*'.

12. Paragraph 78

Before the table, insert caption 'Table 1: Examples index and paragraph references'.

13. Paragraph 183

- (a) Before the diagram, insert caption 'Diagram 2: Relationship between salary and wages and OTE for an individual super guarantee shortfall calculation'.
- (b) In the diagram, omit '(9)'.

14. Paragraph 184

- (a) Omit the list item identifier '(c)'; substitute '(a)'.
- (b) Omit the list item number '(d)'; substitute '(b)'.

15. Paragraph 253

In footnote 22, omit 'Superannuation Guarantee Ruling'.

16. Paragraph 254

In footnote 23, omit 'Taxation Ruling TR 2002/21 Income tax: Pay As You Go (PAYG) Withholding from salary, wages, commissions, bonuses or allowances paid to office holders'; substitute 'TR 2002/21'.

17. Paragraph 272

In footnote 29, omit 'SGR 2005/2'; substitute 'Superannuation Guarantee Ruling SGR 2005/2 *Superannuation guarantee: work arranged by intermediaries*'.

18. Paragraph 278

Omit 'Income Tax Ruling'; substitute 'Taxation Ruling'.

19. Paragraph 279

Omit the words '*Private or domestic work under 30 hours per week*'; substitute '*Private or domestic work 30 hours per week or less*'.

This Addendum applies to payments made to employees in the quarter beginning 1 July 2022 and all later quarters.

Commissioner of Taxation
19 October 2022

ATO references

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