

LCR 2026/D3 - Payday Super: calculation and assessment of the superannuation guarantee charge

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Law Companion Ruling

Payday Super: calculation and assessment of the superannuation guarantee charge

📌 Relying on this draft Ruling

This publication is a draft for public comment. It represents the Commissioner's preliminary view on how a relevant provision could apply.

If this draft Ruling applies to you and you rely on it reasonably and in good faith, the fact that you acted in accordance with this draft Ruling would be a relevant factor in your favour in the Commissioner's exercise of any discretion in regard to the imposition of penalties or interest.

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What this draft Ruling is about

1. This draft Ruling¹ is part of a suite of law companion rulings relating to the reforms to the superannuation guarantee (SG) framework made by the *Treasury Laws Amendment (Payday Superannuation) Act 2025* and the *Superannuation Guarantee Charge Amendment Act 2025*. These reforms, referred to as ‘Payday Super’ or ‘the Payday Super reforms’, apply from 1 July 2026.

2. The rulings provide our views on key aspects of the revised legislative regime in the *Superannuation Guarantee (Administration) Act 1992* (SGAA).

3. This Ruling provides an overview of how the SG charge is calculated and assessed in light of the amendments made by the Payday Super reforms.

4. In this Ruling, terms are used with the following definitions unless otherwise indicated:

- **business day**² means a day other than
 - a Saturday or a Sunday, or
 - a day which is a public holiday for the whole of
 - any state
 - the Australian Capital Territory, or
 - the Northern Territory
- **employee** has the same meaning as in section 12 of the SGAA and includes a former employee³
- **employer** has the same meaning as in section 12 of the SGAA

¹ For readability, all further references to ‘this Ruling’ refer to the Ruling as it will read when finalised. Note that this Ruling will not take effect until finalised.

² See subsection 6(1) of the SGAA (definition of ‘business day’).

³ Section 15B of the SGAA provides that Part 3 of the SGAA (which includes the provisions for the liability to the SG charge and its calculation) applies in respect of payments to former employees as if they were employees.

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- **estimate of SG charge liability** means an estimate made by the Commissioner under subsection 268-10(1) of Schedule 1 to the *Taxation Administration Act 1953* (TAA) of an employer's SG charge liability for a QE day
- **individual SG amount** for an employee for a QE day is equal to the amount of the qualifying earnings for the employee for the QE day multiplied by the charge percentage (12) divided by 100⁴
- **late contributions** are contributions that are *eligible contributions relevant for the late period for the QE day* within the meaning of subsection 18D(2) of the SGAA
- **late period** for a QE day, an employer and an employee, is the period starting on the day after the latest day an on-time contribution can be made and ending on the day before the day an assessment for the QE day is made for the employer⁵
- **on-time contributions** are contributions that are *eligible contributions relevant for the QE day* within the meaning of subsection 18C(1) of the SGAA
- **QE day** means a day on which an employer makes a payment of qualifying earnings to or for an employee⁶
- **qualifying earnings** has the meaning in section 10A of the SGAA. It includes all ordinary time earnings (OTE), amounts of OTE that have been sacrificed in exchange for additional employer superannuation contributions under a salary sacrifice arrangement and a range of additional types of earnings, remuneration and payments⁷
- **superannuation fund** has the meaning given by subsection 6(1) of the SGAA and section 10 of the *Superannuation Industry (Supervision) Act 1993*, which includes a public sector superannuation scheme. However, in the context of this Ruling, it also includes a retirement savings account. This means that, unless the context indicates otherwise, when this Ruling refers to superannuation funds, this encompasses all arrangements to which superannuation contributions can be paid, or deemed to be paid, to avoid an SG charge liability arising under the SGAA.

5. In addition, terms that are defined in the SGAA or the *Income Tax Assessment Act 1997* are used with their defined meaning unless otherwise indicated.

6. All further legislative references in this Ruling are to the SGAA, unless otherwise indicated.

Date of effect

7. When the final Ruling is issued, it is proposed to apply from 1 July 2026.

⁴ Subsection 17A(2) of the SGAA.

⁵ Subsection 6(1) of the SGAA (definition of 'late period').

⁶ Subsection 17A(1) of the SGAA.

⁷ For further detail around what constitutes qualifying earnings, see draft Law Companion Ruling LCR 2026/D1 *Payday Super: qualifying earnings*.

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Overview of the Payday Super reforms

8. The purpose of the Payday Super reforms is to create a strong incentive for employers to make super contributions for their employees at the same time as they pay their employee's qualifying earnings. The reforms do this by reducing the time between the day employees are paid qualifying earnings (QE day), and the day employers must ensure their superannuation contributions are received by their employees' superannuation funds in order to avoid liability for the SG charge.

9. Broadly speaking, under Payday Super, employers are subject to the SG charge (a tax) if they have an SG shortfall. Employers will have an SG shortfall for a QE day (and be subject to the SG charge) unless they:

- make sufficient eligible contributions for their employees' benefit within the required time (and therefore have an individual base SG shortfall of nil for the QE day), and
- comply with the choice of fund requirements⁸ when making such contributions (and therefore have a choice loading of nil for the QE day).⁹

10. If an employer has an SG shortfall for a QE day, the employer can still reduce the amount of their SG shortfall by making late contributions and lodging a voluntary disclosure statement, up until the day before the day the Commissioner makes an assessment of the SG charge for the QE day. However, the amount of the SG shortfall cannot be reduced to nil by late contributions because the SG shortfall includes notional earnings and an administrative uplift amount.

11. The SG charge for an employer for a QE day is equal to the amount of the employer's SG shortfall for that day.¹⁰ The Commissioner can make an assessment of an employer's SG shortfall for a QE day and the resulting SG charge at any time.¹¹ The SG charge is payable from the day the assessment is made.¹² A late payment penalty can apply to employers who delay paying the assessed SG charge.¹³

12. The Payday Super reforms will apply in respect of qualifying earnings paid on or after 1 July 2026. The Payday Super reforms also set out a range of transitional rules that are intended to address timing mismatches, legacy arrangements, and overlapping obligations that may arise through the transition period.¹⁴

Specific issues for guidance

Employers and the superannuation guarantee charge

13. An employer who makes a payment of qualifying earnings to or for an employee needs to make a minimum amount of superannuation contributions by a particular time in order to avoid liability to the SG charge.¹⁵

14. In the context of the SGAA, 'employer' and 'employee' have a wide meaning in section 12, encompassing both the ordinary meaning of these terms and also a range of

⁸ In Part 3A.

⁹ Subsection 16B(1).

¹⁰ Section 6 of the *Superannuation Guarantee Charge Act 1992*.

¹¹ Subsection 36(1).

¹² Subsection 36(4).

¹³ See sections 59 to 59E.

¹⁴ See draft Law Companion Ruling LCR 2026/D4 *Payday Super: application and transitional provisions*.

¹⁵ Section 16.

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relationships outside of traditional employment, such as certain labour contracts, directorships and the holding of government offices.¹⁶ They also include former employees and (correspondingly) past employers.¹⁷

15. Taxation Ruling TR 2023/4 *Income tax and superannuation guarantee: who is an employee?* provides guidance about the Commissioner's view on when an individual is an employee of another entity and, correspondingly, when that other entity is the employer of the individual, both within the ordinary meaning and within the extended meaning under the SGAA.

16. There is no sequential hierarchy in section 12 when determining whether someone is an employer of an employee. The various subsections must be considered individually. An employment relationship will exist where any subsection is satisfied.¹⁸

What is a QE day?

17. A QE day is a day on which the employer makes a payment of qualifying earnings to or for an employee. Each day you make a payment of qualifying earnings to or for an employee is a separate QE day.

18. If you make a payment of qualifying earnings on a particular day, that day will be the QE day even if you:

- put the payment into your payroll or accounting system on a different day
- pay other employees on a different day, or
- have a longer period to report the payment to the Commissioner.

Calculation of the superannuation guarantee shortfall

19. The SG charge liability of an employer is based on their SG shortfall for a QE day.¹⁹ An employer's SG shortfall for a QE day is made up of 4 components. These components are the²⁰:

- total of the employer's individual final SG shortfalls for employees for the QE day
- total of the employer's individual notional earnings components for the QE day
- employer's administrative uplift amount for the QE day, and
- total of the employer's choice loadings for the QE day.

Calculation of the individual final superannuation guarantee shortfall

20. The first component of an employer's SG shortfall for a QE day is the total of the employer's *individual final SG shortfalls* for employees for the QE day.²¹ This is, broadly, the difference between the amount of superannuation that the employer was required to

¹⁶ See section 12. See also *Commissioner of Taxation v Racing Queensland Board* [2019] FCAFC 224 at [50–51].

¹⁷ Section 15B.

¹⁸ *Australian Turf Club Ltd and Commissioner of Taxation* [2024] AATA 2728 at [192].

¹⁹ Section 16A.

²⁰ Section 16B.

²¹ Paragraph 16B(2)(a).

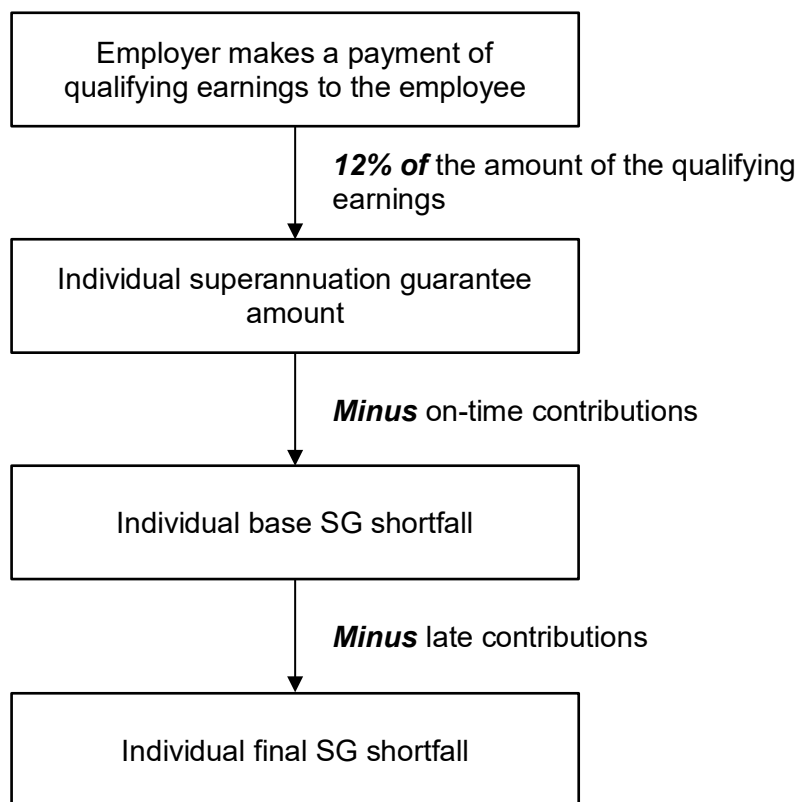
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pay for each employee in order to avoid liability to the SG charge, based on the qualifying earnings that were paid to or for the employee, and the amount of eligible contributions that the employer actually did make for the employee before an SG charge assessment is made.²²

21. The individual final SG shortfall must be calculated for each employee for the QE day before they are added together. This means an employer that makes excess contributions for some employees and insufficient contributions for others will still have an individual final SG shortfall for each employee for which insufficient contributions were made.

22. The process for calculating the individual final SG shortfall is shown in Diagram 1 of this Ruling²³:

Diagram 1: Process for calculating the individual final SG shortfall



Individual superannuation guarantee amount

23. The individual SG amount for an employee is equal to the amount an employer is required to contribute for an employee for a QE day in order to avoid liability to the SG charge.

24. When an employer pays qualifying earnings to or for an employee on a QE day, the employer has an individual SG amount for the employee for that QE day.²⁴

²² Section 18D.

²³ Adapted from diagram 1.1 of the Explanatory Memorandum to the Treasury Laws Amendment (Payday Superannuation) Bill 2025 and the Superannuation Guarantee Charge Amendment Bill 2025 (EM).

²⁴ Subsection 17A(1).

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25. The individual SG amount for an employee for a QE day is equal to the amount of the qualifying earnings multiplied by the charge percentage divided by 100.²⁵ This is expressed by the formula:

$$\text{Amount of the qualifying earnings} \times \frac{\text{Charge percentage}}{100}$$

26. The amount of the qualifying earnings refers to the total amount of qualifying earnings paid to or for the employee on the QE day. If more than one payment of qualifying earnings is paid by the employer to or for the employee on that QE day, the employer adds all the amounts of qualifying earnings together.

27. Qualifying earnings has the meaning given in section 10A. It includes all OTE, amounts of OTE that have been sacrificed in exchange for additional employer superannuation contributions under a salary sacrifice arrangement and a range of additional types of earnings, remuneration and payments. What is included in qualifying earnings can be affected by special rules, such as those relating to the maximum contribution base and exemption certificates. Our views on what is included in qualifying earnings are outlined in draft Law Companion Ruling LCR 2026/D1 *Payday Super: qualifying earnings*.

28. The charge percentage is 12.²⁶ This means that the employer's individual SG amount for an employee for a QE day will be equal to 12% of the qualifying earnings the employer has paid to or for the employee on that day.

Example 1 – qualifying earnings paid on a QE day

29. On 11 August 2028, Employer Co (the employer) makes a \$1,000 payment of qualifying earnings to Pam. As a result of the payment, 11 August 2028 is a QE day for Employer Co.

30. The individual SG amount for Pam for the QE day is equal to:

$$\$1,000 \text{ (the amount of qualifying earnings)} \times (12 \div 100) = \$120$$

Example 2 – 2 separate payments of qualifying earnings on a QE day

31. On 3 August 2028, Employer Co makes 2 separate payments of qualifying earnings to Rajesh, one of \$2,000 and one of \$500.

32. The individual SG amount for Rajesh for the QE day of 3 August is equal to:

$$\$2,500 \text{ (the total amount of qualifying earnings)} \times (12 \div 100) = \$300$$

Individual base superannuation guarantee shortfall

33. An employer's individual base SG shortfall for an employee is the difference between their individual SG amount for the employee and the QE day and their eligible

²⁵ Subsection 17A(2).

²⁶ Subsection 17A(2).

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contributions for the employee relevant for the QE day (on-time contributions).²⁷ This is set out in the following formula:

$$\text{Individual superannuation guarantee amount for the employee and the QE day} - \text{Eligible contributions relevant for the QE day}$$

34. An employer will have an individual base SG shortfall of nil if they make on-time contributions equal to or exceeding the individual SG amount.

35. On-time contributions are eligible contributions that are received by the employee's fund within any of the following periods²⁸:

- the 12-month period ending on the day before the QE day
- the period starting on the QE day and ending on the seventh business day after the QE day (the 'usual period'), or
- the longest 'allowable longer period' applicable for the employee and the QE day (if any).

36. An allowable longer period will apply in a number of circumstances, including²⁹:

- a new employee engagement
- when an existing employee changes superannuation fund
- an out-of-cycle payment of qualifying earnings
- where an exceptional circumstances determination has been made that covers the employer and the QE day, and
- where an allowable longer period applies to an earlier QE day and the usual period for the later QE day would otherwise end before the end of that allowable longer period.

37. These periods, and what constitutes an on-time contribution, are 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.

38. Draft Law Companion Ruling LCR 2026/D2 *Payday Super: eligible contributions* contains guidance on what an eligible contribution is and when an eligible contribution will be an on-time contribution. The examples that follow apply the principles outlined in that Ruling.

Example 3 – eligible contributions received during the usual period

39. On 11 August 2028, Employer Co makes a \$1,000 payment to Craig of qualifying earnings. The individual SG amount for Craig is \$120 for the QE day.

40. On 14 August 2028, Employer Co makes a \$120 SG contribution to Craig's nominated superannuation fund. On 17 August 2028, Craig's nominated superannuation fund receives the \$120 contribution and allocates the contribution to Craig's member account.

²⁷ Section 18C.

²⁸ Paragraph 18C(1)(c). They must also not have been applied as an on-time or late contribution for an earlier QE day (paragraph 18C(1)(a)).

²⁹ Subsection 18C(2).

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41. *The SG contribution is received by the superannuation fund on the fourth business day after the QE day and therefore is received during the usual period.*

42. *The \$120 contribution is an on-time contribution and results in an individual base SG shortfall for Craig for the QE day of nil ($\$120 - \$120 = \$0$).*

Example 4 – some eligible contributions received during the usual period

43. *On 3 August 2028, Employer Co makes a \$3,000 payment of qualifying earnings to Anna. The individual SG amount for Anna and the QE day is \$360.*

44. *On 7 August 2028, Employer Co makes a \$240 SG contribution to Anna's nominated superannuation fund for the QE day. On 10 August 2028, Anna's nominated superannuation fund receives the \$240 contribution which is able to be allocated to Anna's member account. By the end of 15 August 2028, Anna's nominated superannuation fund has not received any additional eligible contributions for the QE day. The usual period includes an additional day because 7 August 2028 is not counted as a business day for SG purposes, due to the Picnic Day public holiday which applies to all of the Northern Territory. It does not matter whether Employer Co or Employer Co's employees are located in the Northern Territory or elsewhere.*

45. *The \$240 SG contribution is received 4 business days after the QE day (that is, during the usual period). The \$240 is an on-time contribution and is applied against the \$360 individual SG amount.*

46. *The individual base SG shortfall for Anna and the QE day is \$120 ($\$360 - \$240 = \120).*

Example 5 – first contribution – new employee

47. *On 4 August 2028, Employer Co engages a new employee, Kevin.*

48. *On 11 August 2028, Employer Co makes a \$1,750 payment of qualifying earnings to Kevin. The individual SG amount for Kevin and the QE day is \$210. As Kevin is a new employee, an allowable longer period applies. To avoid an SG shortfall for the QE day, the first eligible contribution for Kevin as a new employee must be received by his superannuation fund, and be able to be allocated to Kevin's account, within the period of 20 business days after the QE day. In this case, the allowable longer period ends at the end of 8 September 2028.*

49. *On 25 August 2028, Employer Co makes a \$3,500 payment of qualifying earnings to Kevin. The individual SG amount for this QE day is \$420. The usual period for this QE day for Kevin ends on 5 September 2028, which is before the end of the allowable longer period for when eligible contributions are to be received by Kevin's superannuation fund for the earlier QE day (11 August 2028). As a result, an allowable longer period applies for Kevin for this later QE day. Eligible contributions received by Kevin's superannuation fund, and able to be allocated to his account, before the end of 8 September 2028 will be on-time contributions for the 25 August QE day.*

50. *On 6 September 2028, Employer Co makes an SG contribution of \$630 to Kevin's superannuation fund. This amount is received by Kevin's superannuation fund and allocable to his account on 7 September 2028.*

51. *In respect of the \$630, \$210 is an on-time contribution received by Kevin's superannuation fund during the allowable longer period for the 11 August 2028 QE day*

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and is applied first against that QE day as the earliest QE day. The individual base SG shortfall for Kevin and that QE day is therefore nil.

52. *The remaining \$420 is an eligible on-time contribution received by Kevin's superannuation fund during the allowable longer period for the 25 August 2028 QE day. The individual base SG shortfall for Kevin and that QE day is therefore nil.*

Example 6 – multiple allowable longer periods

53. *Phil has been an employee of Employer Co for 5 years. Phil notifies Employer Co that he has ceased membership with his existing superannuation fund and transferred his interest to a new choice superannuation fund from 8 August 2028. Employer Co has never made SG contributions to this new superannuation fund for Phil's benefit.*

54. *On 11 August 2028, Employer Co makes a \$3,150 payment of qualifying earnings to Phil. The individual SG amount for Phil for the QE day is \$378. For the first contribution made to a new superannuation fund for an employee, an allowable longer period applies. The allowable longer period is 20 business days after the QE day, which means this allowable longer period for Phil and the QE day ends at the end of 8 September 2028.*

55. *However, an exceptional circumstances determination issued on 14 August 2028. It covers a class of employers which includes Employer Co and QE days in the period 9 August 2028 to 18 August 2028. As a result, another allowable longer period also applies for Phil and the 11 August 2028 QE day. This allowable longer period ends at the end of 11 September 2028.*

56. *On 6 September 2028, Employer Co makes a \$378 SG contribution to Phil's new nominated superannuation fund which is received by the fund and allocable to Phil's account on 9 September 2028. This is an on-time contribution for the QE day as it is received before the end of the latest day in any applicable allowable longer period for the QE day. The eligible contributions are applied against the 11 August 2028 QE day and result in an individual base SG shortfall for Phil and the QE day of nil.*

Individual final superannuation guarantee shortfall

57. *If an employer's individual base SG shortfall for an employee and QE day is nil (because the employer has made sufficient on-time contributions for that employee and QE day), the individual final SG shortfall for that employee and QE day is also nil.³⁰ Otherwise, the employer's individual final SG shortfall for the employee and QE day is the amount of the employer's individual base SG shortfall, less any eligible contributions relevant for the late period for the QE day (late contributions).³¹*

58. *This means that even if an employer has not made sufficient on-time contributions for an employee for a QE day (and so has an individual base SG shortfall great than nil), they can still make late contributions to reduce their individual final SG shortfall for the QE day. This will reduce their overall SG shortfall and resulting SG charge liability.*

³⁰ Paragraph 18D(1)(a).

³¹ Paragraph 18D(1)(b) and subsection 18D(2). Note that the individual final SG shortfall cannot be reduced to less than nil – paragraph 18D(2)(d).

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59. Late contributions are eligible contributions that:

- are received in the period (late period³²)
 - starting the day after the last day a contribution can be an on-time contribution for that QE day, and
 - ending the day before an assessment of the employer's SG shortfall is made for that QE day, and
- have not been applied for an earlier QE day.³³

60. However, even if an employer makes sufficient late contributions to reduce their individual final SG shortfall to nil before an assessment is made, they will still have an SG shortfall for the employee for the QE day. This is because the individual base SG shortfall is used in the calculation of other components of the SG charge.³⁴

Example 7 – late contributions

61. *As a result of a payment of qualifying earnings of \$1,000 to Layla on 11 August 2028, Employer Co has an individual SG amount of \$120 for Layla for the QE day. No on-time contributions are made to Layla's superannuation fund, with the usual period for the QE day ending on 22 August 2028, resulting in Employer Co having an individual base SG shortfall of \$120.*

62. *On 28 August 2028, Employer Co pays an eligible contribution of \$120 to Layla's nominated superannuation fund. This contribution is received by the fund and allocated to Layla's account on 30 August 2028, before the Commissioner assesses Employer Co's SG charge liability.*

63. *The contribution of \$120 is a late contribution and reduces Employer Co's individual final SG shortfall for Layla for the 11 August 2028 QE day to nil.*

Individual notional earnings component

64. The second component of the SG shortfall of an employer for a QE day is the total of the individual notional earnings components.³⁵

65. The individual notional earnings component is designed to compensate employees for lost superannuation earnings when eligible contributions are not made on time by their employer. It is calculated using the individual base SG shortfall.

66. The individual notional earnings component for a QE day is calculated for each employee by:

- on the first day of the relevant period, applying the general interest charge (GIC) rate³⁶ to the individual base SG shortfall relating to that employee

³² Subsection 6(1) (definition of 'late period').

³³ Subsection 18D(2).

³⁴ See the individual notional earnings component and the administrative uplift amount discussed at paragraphs 64 to 71 and 83 to 96 of this Ruling respectively.

³⁵ Paragraph 16B(2)(b).

³⁶ In this context, the 'general interest charge rate' means the rate determined under section 8AAD of the *Taxation Administration Act 1953*.

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- on any subsequent days, applying the GIC rate to the sum of the individual base SG shortfall and the notional earnings amounts for that employee and QE day for the previous days in the late period.³⁷

67. The individual notional earnings component accrues daily on a compounding basis for each day in the late period. However, if a contribution is received by the employee's superannuation fund on a day during the late period which reduces the individual final SG shortfall for the employee for the QE day to nil, the individual notional earnings component ceases at an earlier time. In that circumstance, the individual notional earnings component is calculated from the beginning of the late period up to and including the day the contribution is received that reduces the individual final SG shortfall to nil for the employee and QE day.

68. If a contribution is received by the employee's superannuation fund on a day during the late period which does not reduce the individual final SG shortfall for the employee for the QE day to nil, the notional earnings calculation will not be impacted by that contribution. Notional earnings will continue to accrue on a compounding basis on the individual base SG shortfall amount for the employee until the earlier of:

- a late contribution being received that does reduce the individual final SG shortfall to nil, or
- the day before the day the Commissioner makes an assessment for the QE day.

69. This means that the amount of the individual notional earnings component for an employer that makes a late contribution can depend on the day the late contribution is received by the superannuation fund and able to be allocated to the employee.

70. In certain circumstances, the law provides that an eligible contribution will be taken to have been received by a fund on a particular date, for the purposes of the calculation of the notional earnings component only. Specifically, if an employer lodges a voluntary disclosure statement³⁸ relating to a late contribution, that includes the date the employer paid the 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.³⁹

71. The individual notional earnings component is calculated by the Commissioner and forms part of the SG charge assessment.

Example 8 – individual notional earnings component period

72. *Employer Co has an individual base SG shortfall for Moana for the 7 September 2028 QE day of \$120. As Employer Co has an individual base SG shortfall for Moana, it also has an individual notional earnings component for Moana for the QE day.*

73. *Employer Co makes a late contribution of \$120 which is received by Moana's superannuation fund, and is allocable to her account, on 20 October 2028.*

74. *Employer Co's individual notional earnings component for Moana accrues from 19 September 2028 (the beginning of the late period) to 20 October 2028 (being the last*

³⁷ Subsection 19A(2).

³⁸ For more information about voluntary disclosure statements, see paragraphs 86 to 90 and 129 to 132 of this Ruling.

³⁹ Subsection 36(3).

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day Employer Co had an individual final SG shortfall greater than nil in relation to Moana for the QE day).

Example 9 – individual notional earnings component period – multiple contributions

75. Employer Co has an individual base SG shortfall of \$140 for Yuki for the 21 August 2028 QE day. Employer Co later makes 2 late contributions for Yuki for the QE day – one contribution of \$20 is received by Yuki’s superannuation fund, and allocable to her account, on 18 September 2028 and another contribution of \$120 is received by Yuki’s superannuation fund, and allocable to her account, on 27 September 2028.

76. As Employer Co had an individual base SG shortfall for Yuki, it is also liable for an individual notional earnings component for Yuki for the QE day.

77. Employer Co’s individual notional earnings component for Yuki and the QE day accrues from 31 August 2028 (the beginning of the late period) to 27 September (the last day Employer Co had an individual final SG shortfall greater than nil for Yuki for the QE day). As the late contribution on 18 September did not reduce Employer Co’s individual final SG shortfall to nil, it did not end this period or otherwise alter the calculation of the individual notional earnings component.

Example 10 – individual notional earnings component period – deemed date of receipt

78. On 29 June 2027, Employer Co identified that it had underpaid Angus’s superannuation in relation to a payment of qualifying earnings on the 8 June 2027 QE day. As a result of the underpayment, it has an individual base SG shortfall of \$50.

79. Employer Co immediately pays this amount to Angus’s chosen superannuation fund (which in due course is received by the fund and allocated to Angus’s member account) and lodges a voluntary disclosure statement informing the ATO about its SG charge liability. In its voluntary disclosure statement, Employer Co includes the day it paid the contribution (29 June 2027), but not the day the contribution was received by Angus’s superannuation fund.

80. As Employer Co had an individual base SG shortfall for Angus for the QE day, it is also liable for an individual notional earnings component for Angus for that QE day.

81. Employer Co’s individual notional earnings component for Angus begins to accrue from 19 June 2027 (the beginning of the late period). The late period starts on 19 June 2027, because 14 June 2027 is not a business day for SG purposes, due to it being the King’s Birthday public holiday in several states. The usual period for the 8 June 2027 QE day therefore doesn’t end until the end of 18 June 2027.

82. As the voluntary disclosure statement made by Employer Co includes the payment date for the contribution that reduced Employer Co’s individual final SG shortfall to nil for Angus for the QE day, but does not include the day the contribution was received by Angus’s superannuation fund, this is deemed to have occurred 7 business days after the date of payment by Employer Co (that is, on 8 July 2027). As a result, the individual notional earnings component for Angus for the QE day is calculated up to and including 8 July 2027.

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Administrative uplift amount

83. The third component of an employer's SG shortfall is the employer's administrative uplift amount.⁴⁰ The administrative uplift amount is designed to recoup some of the Commissioner's costs associated with investigating and assessing the SG charge and to incentivise prompt disclosure of SG shortfalls.⁴¹

84. An employer's administrative uplift amount for a QE day is equal to 60% of the sum of all the employer's individual *final* SG shortfalls and individual notional earnings components for the QE day.⁴²

85. However, the administrative uplift amount for a QE day may be reduced (but not below nil) in circumstances where:

- the employer lodges a voluntary disclosure statement for the QE day prior to the assessment of SG charge being made⁴³, or
- there is no Commissioner initiated assessment in force on the QE day, or estimate of SG charge liability, that has been made for the employer during the period of 24 months⁴⁴ ending on the QE day.⁴⁵

Voluntary disclosure statements

86. The first circumstance that may result in the reduction in the administrative uplift amount is where the employer has lodged a voluntary disclosure statement disclosing their SG shortfall for the QE day.⁴⁶ By lodging a voluntary disclosure statement, the employer has reduced the administrative burden of the Commissioner in assessing their SG charge liability.

87. An employer who has an SG shortfall for a QE day may lodge a voluntary disclosure statement to report that shortfall.⁴⁷ Employers can make a voluntary disclosure statement at any time before the day the Commissioner makes an assessment of the SG shortfall for the QE day.⁴⁸

88. A voluntary disclosure statement must be in the approved form.⁴⁹ This means that the statement must be provided in a form approved by the Commissioner and contain the information required by that form, and any further information, statement or document as required by the Commissioner.⁵⁰

89. A statement that does not comply with the requirements of the approved form will not be a voluntary disclosure statement and will not reduce the percentage of the administrative uplift amount. However, minor errors or discrepancies will not prevent a

⁴⁰ Paragraph 16B(2)(c).

⁴¹ Paragraph 1.82 of the EM.

⁴² Subsection 19B(1).

⁴³ See subsections 19B(2) and 19B(3) of the SGAA and section 13D of the *Superannuation Guarantee (Administration) Regulations 2018*.

⁴⁴ A transitional rule applies for QE days in the period beginning on 1 July 2026 and ending on 30 June 2028 – see subsection 13C(3) of the *Superannuation Guarantee (Administration) Regulations 2018*. For these QE days, the test period is not the preceding 24 months, but the period commencing on 1 July 2026 and concluding on the QE day.

⁴⁵ See subsections 19B(2) and 19B(3) of the SGAA and section 13C of the *Superannuation Guarantee (Administration) Regulations 2018*.

⁴⁶ Section 13D of the *Superannuation Guarantee (Administration) Regulations 2018*.

⁴⁷ Subsection 33(1).

⁴⁸ Paragraph 33(2)(a).

⁴⁹ Paragraph 33(2)(b).

⁵⁰ Subsection 388-50(1) of Schedule 1 to the TAA.

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statement that substantially complies with the approved form requirements from being a voluntary disclosure statement.⁵¹

90. Where the employer has lodged a voluntary disclosure statement before the day an assessment of the SG charge is made for the QE day, the amount of any reduction in the administrative uplift amount depends on the time at which the voluntary disclosure statement is lodged. When calculating the relevant number of days in this context, it is *calendar days* that is used, not business days. Table 1 of this Ruling outlines the amount of the reduction in the administrative uplift amount, based on when the voluntary disclosure statement is lodged.⁵²

Table 1: Reduction in administrative uplift amount when a voluntary disclosure statement is lodged by the employer

Day the voluntary disclosure statement is lodged	Reduction in the administrative uplift amount
Before the end of 30 days starting on the QE day	40 percentage points
31 days to 60 days starting on the QE day	35 percentage points
61 days to 120 days starting on the QE day	30 percentage points
More than 120 days starting on the QE day	15 percentage points

Commissioner-initiated assessments and estimates

91. The administrative uplift amount may also be reduced where a Commissioner-initiated assessment in force on the QE day, or an estimate of SG charge liability, is made in the period of 24 months ending on the QE day.⁵³ In this circumstance, the administrative uplift amount is reduced by 20 percentage points.

92. A Commissioner-initiated assessment is an original assessment of SG charge that is made on the Commissioner's own initiative rather than being based on information provided in a voluntary disclosure statement.⁵⁴ It includes an assessment that the Commissioner makes in response to an employer lodging a statement purporting to be a voluntary disclosure statement but which does not meet the requirements to qualify as one. An example of such a form is a purported voluntary disclosure statement that is not in the approved form because it omits material information, such as both the day the employer paid a late contribution and the day the late contribution was received and allocated to the employee by the superannuation fund. The requirements for voluntary disclosure statements are further discussed at paragraphs 87 to 89 and 129 to 132 of this Ruling.

93. For the purposes of the administrative uplift amount, it is only an original SG charge assessment, not an amended SG charge assessment, that can come within the definition of a 'Commissioner-initiated assessment' in subsection 13C(4) of the *Superannuation Guarantee (Administration) Regulations 2018*. An amended assessment will never be a Commissioner-initiated assessment because paragraph 13C(4)(b) requires the

⁵¹ Section 25C of the *Acts Interpretation Act 1901* states that when an Act prescribes a form, strict compliance with the form is not required and substantial compliance is sufficient.

⁵² Section 13D of the *Superannuation Guarantee (Administration) Regulations 2018*.

⁵³ Subsection 13C(1) of the *Superannuation Guarantee (Administration) Regulations 2018*.

⁵⁴ See paragraphs 129 to 132 of this Ruling and subsection 13C(4) of the *Superannuation Guarantee (Administration) Regulations 2018*.

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assessment to have been made under subsection 36(1) of the SGAA. Amended assessments are made under section 37 of the SGAA.

94. An estimate of SG charge liability is a liability the employer must pay under section 268-20 of Schedule 1 to the TAA. Under subsection 268-10(1) of Schedule 1 to the TAA, the Commissioner may estimate the unpaid and overdue amount of certain liabilities including a liability to pay SG charge where an assessment has not been made. This provision enables the Commissioner to make an estimate of an employer's SG charge liability if there is insufficient reliable information to enable an assessment to be made.

95. An estimate of SG charge liability that is revoked, or reduced to nil, on or before the QE day is disregarded.⁵⁵

Reductions may be applied separately or cumulatively

96. Each of the reductions to the administrative uplift amount can be applied separately or cumulatively. This effectively means that there are 10 potential final outcomes for the employer's administrative uplift amount, reflected in Table 2 of this Ruling.

Table 2: Administrative uplift percentage based on the circumstances of the employer

Lodgment date of voluntary disclosure statement	Administrative uplift percentage if there are no Commissioner-initiated assessments or estimates made in the 24 months ending on the QE day that are still in force on that day	Administrative uplift percentage if there is a Commissioner-initiated assessment or estimate made in the 24 months ending on the QE day that is still in force on that day
Before the end of 30 days starting on the QE day	0%	20%
31 days to 60 days starting on the QE day	5%	25%
61 days to 120 days starting on the QE day	10%	30%
More than 120 days starting on the QE day	25%	45%
Not lodged before assessment	40%	60%

Example 11 – calculating the administrative uplift amount

97. *Employer Co makes a payment of qualifying earnings for its 2 employees, Chris and Ali, on 19 October 2028. Employer Co makes eligible contributions for both employees. The amount of each contribution equals the individual SG amount for each employee and they are received by each respective superannuation fund, and are allocable to each employee's account, on 8 November 2028. As the usual period for receipt of the contributions for the QE day is 7 business days – ending on 30 October 2028 – the contributions are made in the late period. For both employees, the late contribution reduces the employer's individual final SG shortfall to nil. However, Employer Co is still subject to an individual notional earnings component for both Chris and Ali from the first*

⁵⁵ Subsection 13C(2) of the *Superannuation Guarantee (Administration) Regulations 2018*.

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day of the late period – 31 October 2028 – to the day the individual final SG shortfall is reduced to nil.

98. *Employer Co lodges a voluntary disclosure statement with the ATO on 8 November 2028. This is 20 days after the QE day but before the employer's SG shortfall and SG charge for the QE day is assessed.*

99. *The voluntary disclosure statement is in the approved form and provides the information required by the form. As the voluntary disclosure statement is lodged before the end of 30 days starting on the QE day, the administrative uplift amount is reduced by 40 percentage points.*

100. *Additionally, in the 24-month period ending on the QE day, 19 October 2028, there has been no Commissioner-initiated assessment of SG charge, nor an estimate under subsection 268-10(1) of Schedule 1 to the TAA for Employer Co. As a result, Employer Co's administrative uplift percentage is reduced by a further 20 percentage points to 0% of the total of its individual final SG shortfalls and the individual notional earnings components. Accordingly, the administrative uplift amount will be nil.*

101. *However, if there had been a Commissioner-initiated assessment of SG charge for the QE day of 25 August 2028 made on 22 September 2028, Employer Co would not be entitled to this further reduction in the administrative uplift amount. This would not affect its entitlement to the reduction for lodging a voluntary disclosure statement.*

102. *Accordingly, in this alternative scenario, the administrative uplift amount will be 20% of the total of Employer Co's individual final SG shortfalls and the individual notional earnings components.*

Choice loading

103. The final component of the SG shortfall is the total of the employer's choice loadings for the QE day.⁵⁶

104. A choice loading arises for an employee for a QE day if an employer makes eligible contributions for the employee that fail to comply with the choice of fund requirements set out in Part 3A. This includes both actual contributions and contributions notionally made to a defined benefit scheme under subsection 18A(3).⁵⁷

105. Generally, to comply with the choice of fund requirements an employer must make eligible contributions for an employee to the employee's chosen superannuation fund.⁵⁸ In some circumstances, such as where the employee has not chosen a fund, it may be possible for contributions to a superannuation fund that is not a chosen fund to satisfy the choice of fund requirements or for an exception to apply to the choice of fund

⁵⁶ Paragraph 16B(2)(d).

⁵⁷ Subsections 20A(2) and (3).

⁵⁸ Section 32C.

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requirements.⁵⁹ Further requirements apply to notional contributions to defined benefit superannuation funds.⁶⁰

106. However, regardless of the superannuation fund to which contributions are paid, the choice of fund rules will not be satisfied if the employer imposes a direct cost or charge on the employee for having to contribute to that fund.⁶¹

Determining the amount of choice loading

107. If all of an employer's eligible contributions for an employee for a QE day either satisfy the choice of fund requirements or are covered by an exception, the employer will have no choice loading for the QE day for that employee.

108. However, when some or all of the contributions made for an employee do not satisfy the choice of fund requirements, and no exclusion is applicable, then a choice loading arises in relation to the employee for the QE day. The amount of the choice loading is the *lower of*⁶²:

- 25% of the total contributions that did not comply with the choice of fund requirements, or
- the choice loading limit for the QE day.

Choice loading limit

109. The choice loading limit for a QE day is \$1,200.⁶³ This means that the amount of choice loading an employer can be liable to pay for the QE day in relation to one employee cannot exceed \$1,200.

110. This limit can be reduced to account for other choice loading liabilities for other QE days over a specific period – the 'notice period'.

111. Specifically, the choice loading limit for a QE day is reduced by an amount equal to the amount of any choice loadings for prior QE days in the notice period.⁶⁴ This means that, in practice, the choice loading limit applies on a cumulative basis over a notice period. The choice loading limit for each subsequent QE day in a notice period is reduced by the total of the past choice loadings during the notice period. As a result, the maximum amount of choice loading an employer can be liable for in relation to each employee over any notice period cannot exceed \$1,200.

⁵⁹ Section 32C sets out circumstances in which contributions may be able to be made to certain other superannuation funds and still satisfy choice of fund requirements. Some of these circumstances apply where a superannuation fund has not been chosen, permitting contributions to stapled funds (broadly, a superannuation fund with which the employee already has an account) or default funds (broadly, a fund meeting certain requirements that the employer has specified as the superannuation fund to which contributions will be paid in the absence of a chosen fund or stapled fund for an employee). Others address cases that fall outside the choice framework, such as contributions to unfunded public sector superannuation schemes or to address administrative or process issues or transitional issues, such as successor fund transfers or contributions made under historic industrial agreements.

⁶⁰ Subsection 20A(3) and section 20B.

⁶¹ Section 32CA.

⁶² Paragraph 20A(1)(a).

⁶³ Subsection 20C(1).

⁶⁴ Subsection 20C(2).

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112. The notice period is the period⁶⁵:

- beginning on the latest of
 - 1 July 2026
 - the day the employee’s employment commenced with the employer, and
 - the day after the end of the immediately preceding notice period (if any) for the employer and the employee, and
- ending on the day the employer is given written notice by the Commissioner that the period has ended.

113. The Commissioner will usually give written notice to an employer that the notice period has ended on the day on which the Commissioner makes or amends the employer’s SG charge assessments to include choice loading amounts for QE days in the period.

Example 12 – eligible contributions made to incorrect fund for multiple QE days

114. *Mary has been an employee of Employer Co since July 2024. On 4 August 2028, Mary provides written notice to Employer Co of a change to her choice of fund. It sets out all prescribed information and provides written evidence that the new chosen superannuation fund will accept contributions made by an employer for the benefit of Mary.*

115. *This means from 5 October 2028 (the date the choice has effect⁶⁶) any eligible contributions Employer Co makes for a QE day for the benefit of Mary must be made to her new choice of fund.*

116. *After receiving Mary’s written notice, Employer Co continues to make eligible contributions to Mary’s former superannuation fund, in line with its administrative practice since the commencement of Mary’s employment.*

117. *On 6 October 2028 and 20 October 2028, in line with its general pay cycle, Employer Co pays Mary \$2,000 of qualifying earnings for each QE day. The individual SG amount for each QE day is \$240.*

118. *For each of the QE days, Employer Co makes \$240 in eligible contributions to Mary’s original superannuation fund. The eligible contributions are received by the superannuation fund during the usual period and are allocated to Mary’s member account.*

119. *On 6 November 2028, Employer Co becomes aware of its mistake and makes a voluntary disclosure statement to the Commissioner in respect of making eligible contributions to the incorrect fund of choice for Mary and of its SG shortfall in respect to Mary for the QE days of 6 October 2028 and 20 October 2028. In informing the Commissioner, Employer Co details the individual SG amount for each QE day and the payment day on which the \$240 in eligible contributions was incorrectly made for each of the QE days.*

120. *For the purpose of this example, the current notice period had commenced on 1 July 2028. On 9 November 2028 the Commissioner makes an SG charge assessment for the QE days of 6 October 2028 and 20 October 2028.*

⁶⁵ Subsection 20C(3).

⁶⁶ A fund becomes a chosen fund for an employee 2 months after the employee or Commissioner gives notice to the employer, or such earlier time after notice was given that the employer determines – section 32F.

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121. For the 6 October 2028 QE day, the choice loading in relation to Mary is the lower of the amount equal to 25% of the \$240 in eligible contributions made (that is, \$60) or the choice loading limit for the QE day (that is, \$1,200). Employer Co's choice loading for Mary for the 6 October 2028 QE day is \$60.

122. For the 20 October 2028 QE day, because there is an earlier QE day during the notice period in which a choice loading applied in relation to eligible contributions made for the benefit of the employee, the choice loading limit for the later QE day (20 October 2028) is reduced by an amount equal to 25% of the \$240 in eligible contributions made for the earlier QE day for which there was a choice loading liability (\$60). The choice loading limit for the 20 October 2028 QE day is therefore \$1,140 (\$1,200 – \$60).

123. The choice loading for the 20 October 2028 QE day in relation to Mary is the lower of the amount equal to 25% of the \$240 in eligible contributions made (\$60) or the \$1,140 choice loading limit for the QE day. Employer Co's choice loading for Mary for the 20 October 2028 QE day is therefore \$60.

Assessment of superannuation guarantee shortfall and superannuation guarantee charge

124. If an employer has one or more individual base SG shortfalls greater than nil, or one or more choice loadings greater than nil, for a QE day, the employer will have an SG shortfall and be liable for SG charge for the QE day.⁶⁷ The amount of the SG charge payable for a QE day is equal to the SG shortfall.⁶⁸

125. The Commissioner may at any time make an assessment of an employer's SG shortfall for a QE day and the SG charge payable.⁶⁹ This means that there is no time limit on when the Commissioner may make an initial SG charge assessment for a QE day.

126. The SG charge is payable on the day the assessment is made.⁷⁰ An assessment of SG charge is made on the day that notice of the assessment is served on the taxpayer, this being the final step in the process of making an assessment.⁷¹

127. The Commissioner may make an assessment of SG charge either⁷²:

- based on information in a voluntary disclosure statement lodged by the employer for the QE day, or
- on the Commissioner's own initiative.

128. There is no difference in the legal effect of an assessment made under either basis. However, as discussed at paragraphs 91 to 95 of this Ruling, the basis for the assessment does affect whether an assessment for a QE day is a Commissioner-initiated assessment. This in turn affects the amount of the administrative uplift amount that will be included in any future assessment of an SG shortfall and SG charge within the following 24-month period.

⁶⁷ Section 16A and section 16B.

⁶⁸ Subsection 16B(2) of the SGAA and section 6 of the *Superannuation Guarantee Charge Act 1992*.

⁶⁹ Subsection 36(1).

⁷⁰ Subsection 36(4).

⁷¹ See *The Commissioner of Taxation of the Commonwealth of Australia v Ryan, Gwenda Blanche* [1998] FCA 320, per Merkel J and *Batagol v Federal Commissioner of Taxation* [1963] HCA 51; per Kitto J and Owen J.

⁷² Subsection 36(2).

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Assessment based on information in a voluntary disclosure statement

129. Where an employer has an SG shortfall for a QE day but no assessment has been made of their SG charge liability, the employer may lodge a voluntary disclosure statement in the approved form about that shortfall.⁷³

130. Lodgment of a voluntary disclosure statement does not constitute an assessment of the SG shortfall and SG charge. However, provided a statement lodged by the employer meets the requirements to qualify as a voluntary disclosure statement⁷⁴, including being received before the day an assessment has been made, the Commissioner may make an assessment of an employer's SG shortfall for a QE day based on the information in the statement.⁷⁵ While the Commissioner may make an assessment based on a voluntary disclosure statement, the Commissioner is not required to do so. For example, in some cases the Commissioner may defer making an assessment to obtain further information to reconcile the voluntary disclosure statement with other information the Commissioner has received.

131. An assessment does not cease to be based on the information in a voluntary disclosure statement merely because the Commissioner may have recourse to other information sources in making the assessment. Even if the Commissioner makes use of supplementary information to confirm the information in the voluntary disclosure statement, if it is a valid voluntary disclosure statement (which requires, among other things, that it includes the information required by the Commissioner) an assessment made using the information in the statement will usually be an assessment based on the voluntary disclosure statement and it will still be taken into account in determining the amount of the administrative uplift amount as such.

132. 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 be able to 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. The fact that some of the information in the statement was not entirely correct does not necessarily mean that the original statement was not a voluntary disclosure statement. However, the statement will not have been a voluntary disclosure statement if it failed to meet the requirements to be in the approved form in some material way.

Assessment on Commissioner's own initiative

133. The Commissioner may make an assessment of the employer's SG shortfall and SG charge imposed on that shortfall for a QE day on his own initiative using available data sources such as Single Touch Payroll, superannuation fund reporting and employee notifications.

134. The Commissioner would ordinarily make such an assessment where information indicates that an employer has a liability for SG charge and the employer:

- does not lodge a voluntary disclosure statement, or
- lodges a statement that is not a valid voluntary disclosure statement (such as because it was not in the approved form).

⁷³ Subsections 33(1) and (2).

⁷⁴ See paragraphs 87 to 89 of this Ruling.

⁷⁵ See paragraph 36(2)(a).

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Amendment of assessments

135. The Commissioner may amend an assessment if further information comes to light, regardless of whether the assessment was made on the Commissioner's own initiative or was based on a voluntary disclosure statement.⁷⁶ In most cases⁷⁷, the amended assessment must be made within 4 years after the day on which the original assessment was made.

136. An employer may also apply to have an assessment amended (whether the original assessment was based on a voluntary disclosure statement or the Commissioner's own initiative). If the employer makes the application within 4 years of the day that the SG charge is payable and provides all relevant information in that time, the Commissioner may amend the assessment in response to the application even if the amendment is made more than 4 years after the original assessment was made.⁷⁸

General interest charge

137. GIC will accrue on any SG charge that remains unpaid after it becomes payable.

138. An employer is liable to pay GIC for each day from the day the SG charge for a QE day is due and payable until the day the SG charge, and the GIC on that charge, is paid in full.⁷⁹ GIC is calculated on the unpaid amount of the SG charge and compounds daily.⁸⁰

Calculation and assessment of the superannuation guarantee shortfall and superannuation guarantee charge for a QE day

139. Example 13 of this Ruling illustrates the calculation and assessment of the SG shortfall and SG charge following the Payday Super reforms.

140. For simplicity, the following assumptions are made in the example:

- There are no QE days with SG shortfalls prior to the QE day mentioned in the scenario. This means that it is not necessary to address whether any contributions made in respect of the QE day in the scenario can be applied to an earlier QE day.
- There are no excess eligible contributions able to be applied against the QE day mentioned in the scenario.

Example 13 – Commissioner-initiated assessment

141. *Employer Co has 5 employees – Sam, Nia, William, Ella and Kai.*

142. *Employer Co pays its employees on a fortnightly basis. It makes payments of qualifying earnings to each of its employees on 30 July 2027, resulting in the individual SG amounts for its employees as set out in Table 3 of this Ruling:*

⁷⁶ Section 37.

⁷⁷ The Commissioner has unlimited time to amend an assessment if he is of the opinion that an avoidance of SG charge is due to fraud or evasion (subsection 37(2)) or to give effect to the decision on any review or appeal, or amend to reduce a particular following an employer's objection or pending any review or appeal (subsection 37(6)).

⁷⁸ Subsection 37(5).

⁷⁹ Subsection 49(3).

⁸⁰ Subsection 49(1) of the SGAA and Part IIA of the TAA.

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Table 3: Employee qualifying earnings and individual SG amount

Employee	Amount of qualifying earnings	Individual SG amount
Sam	\$3,000	\$360
Nia	\$3,750	\$450
William	\$4,250	\$510
Ella	\$5,500	\$660
Kai	\$6,250	\$750

143. *No allowable longer period applies, so to be on-time contributions, any contributions must be received by the employees' superannuation funds and allocable to the employees' accounts within 7 business days after the QE day – that is, on or before 11 August 2027 (2 August 2027 is not a business day, due to the Picnic Day public holiday applicable to the whole of the Northern Territory).*

144. *On 30 July 2027, Employer Co makes an eligible contribution equal to the individual SG amount for Sam. It also makes an eligible contribution for Ella of \$200. Each of the contributions is received by the relevant employee's chosen superannuation fund and allocable to the employee in the usual period.*

145. *On 3 August 2027, Employer Co makes an eligible contribution equal to the individual SG amount for Nia, but mistakenly pays it to a superannuation fund Nia had previously chosen rather than her current chosen superannuation fund. The eligible contribution is received by the previous chosen superannuation fund, who is able to allocate it to Nia still in the usual period.*

146. *The individual base SG shortfall for each of Employer Co's employees is set out in Table 4 of this Ruling:*

Table 4: Employee individual base SG shortfall

Employee	Individual SG amount	On-time contributions	Individual base SG shortfall
Sam	\$360	\$360	\$0
Nia	\$450	\$450	\$0
William	\$510	Not applicable	\$510
Ella	\$660	\$200	\$460
Kai	\$750	Not applicable	\$750

147. *On 25 August 2027, Employer Co makes a late contribution of \$460 for Ella, and \$100 for Kai. The contributions are received and able to be allocated by their chosen superannuation funds on 30 August 2027.*

148. *Employer Co does not make any eligible contributions for William.*

149. *Employer Co does not lodge a voluntary disclosure statement.*

150. *On 29 September 2027, the Commissioner makes a Commissioner-initiated assessment of Employer Co's SG shortfall and SG charge for the 30 July 2027 QE day.*

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Individual final SG shortfalls

151. *The individual final SG shortfalls for Employer Co are set out in Table 5 of this Ruling:*

Table 5: Employee individual final SG shortfall

Employee	Individual SG amount	On-time contributions	Individual base SG shortfall	Late contributions	Individual final SG shortfall
Sam	\$360	\$360	\$0	Not applicable	\$0
Nia	\$450	\$450	\$0	Not applicable	\$0
William	\$510	Not applicable	\$510	Not applicable	\$510
Ella	\$660	\$200	\$460	\$460	\$0
Kai	\$750	Not applicable	\$750	\$100	\$650

Individual notional earnings components

152. *The individual notional earnings component for William is calculated on the individual base SG shortfall from the beginning of the late period to the day before the Commissioner makes an assessment of the SG shortfall and SG charge for the QE day (the end of the late period). This period is from 12 August 2027 to 28 September 2027 (48 days). Assuming a GIC rate of 10%, the individual notional earnings component⁸¹ is as follows:*

$$\$510 \times (1 + (0.1 \div 365))^{48} - \$510 = \$6.75$$

153. *The individual notional earnings component for Ella is calculated on the individual base SG shortfall from the beginning of the late period to the day the late contribution of \$460 reduced the individual final SG shortfall to nil. This period is from 12 August 2027 to 30 August 2027 (19 days). Assuming a GIC rate of 10%, the individual notional earnings component for Ella is as follows:*

$$\$460 \times (1 + (0.1 \div 365))^{19} - \$460 = \$2.40$$

154. *The individual notional earnings component for Kai is calculated on the individual base SG shortfall from the beginning of the late period to the day before the Commissioner makes an assessment of the SG shortfall and SG charge for the QE day (the end of the late period), because the late contribution made by Employer Co for Kai did not reduce the individual final SG shortfall to nil. This period is from 12 August 2027 to 28 September 2027 (48 days). Assuming a GIC rate of 10%, the individual notional earnings component is as follows:*

$$\$750 \times (1 + (0.1 \div 365))^{48} - \$750 = \$9.93$$

Administrative uplift amount

155. *By default, the administrative uplift amount is 60% of the total of the individual final SG shortfalls and individual notional earnings components.*

⁸¹ Individual base SG shortfall $\times (1 + (10\% \text{ interest rate (that is, 0.1) divided by 365 days)})^{\text{number of days of notional earnings}} - \text{individual base SG shortfall.}$

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156. From 1 July 2026⁸², Employer Co has not had a Commissioner-initiated assessment of SG charge, or an estimate under subsection 268-10(1) of Schedule 1 to the TAA. As a result, the rate of the administrative uplift amount is reduced from the maximum of 60% to 40%. As Employer Co has not lodged a voluntary disclosure statement there is no further reduction.

157. Employer Co's administrative uplift amount⁸³ is:

$$40\% \times (\$1,160 + \$19.08) = \$471.63$$

Choice loading

158. As the eligible contribution for Nia was not paid to her current chosen superannuation fund, Employer Co has a choice loading for the QE day in relation to Nia.

159. For the purpose of this example, Employer Co's current notice period commenced on 1 July 2027. Employer Co has not had any other choice loadings since that time, so its choice loading limit for this QE day is \$1,200.

160. For the 30 July 2027 QE day, Employer Co's choice loading in relation to Nia is the lower of the amount equal to 25% of the \$450 in eligible contributions made that did not comply with the choice of fund requirements (that is, \$112.50) or the choice loading limit for the QE day (that is, \$1,200). Employer Co's choice loading is therefore \$112.50.

SG shortfall

161. Employer Co has an SG shortfall for the 30 July 2027 QE day of \$1,763.21, made up of the components set out in Table 6 of this Ruling:

Table 6: Employer SG shortfall

Employee	Individual final SG shortfall	Individual notional earnings component	Administrative uplift amount	Choice loading
Sam	\$0	\$0	Not applicable	\$0
Nia	\$0	\$0	Not applicable	\$112.50
William	\$510	\$6.75	Not applicable	\$0
Ella	\$0	\$2.40	Not applicable	\$0
Kai	\$650	\$9.93	Not applicable	\$0
Total	\$1,160	\$19.08	\$471.63 ⁸⁴	\$112.50

⁸² The transitional rule in subsection 13C(3) of the *Superannuation Guarantee (Administration) Regulations 2018* applies.

⁸³ Administrative uplift percentage × (total of the employer's individual final SG shortfalls for the QE day + total of the employer's individual notional earnings components for the QE day).

⁸⁴ The administrative uplift amount is calculated at the employer level, not for individual employees.

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162. *The Commissioner's assessment of the SG shortfall and SG charge for the 30 July 2027 QE day will, therefore, be in the amount of \$1,763.20.⁸⁵*

Commissioner of Taxation

18 March 2026

⁸⁵ Section 16B of the TAA has the effect that an amount of SG charge assessed by the Commissioner is decreased to the nearest multiple of 5 cents.

Status: **draft only – for comment**

Appendix – Your comments

163. You are invited to provide comments on this draft Ruling. Forward your comments to the contact officer by the due date.

164. A compendium of comments is prepared as part of the finalisation of this Ruling. An edited version of the compendium (with names and identifying information removed) is published to the ATO Legal database on ato.gov.au.

165. Advise the contact officer if you do not wish for your comments included in the edited compendium.

Due date: 1 May 2026

Contact officer details have been removed as the comments period has ended.

Status: **draft only – for comment**

References

Previous draft:

Not previously issued as a draft

Related rulings and determinations:

LCR 2026/D1; LCR 2026/D2; LCR 2026/D4;
TR 2023/4

Legislative references

- Acts Interpretation Act 1901 25C
- ITAA 1997
- SISA 10
- SGAA 1992
- SGAA 1992 6(1)
- SGAA 1992 10A
- SGAA 1992 12
- SGAA 1992 Pt 3
- SGAA 1992 15B
- SGAA 1992 16
- SGAA 1992 16A
- SGAA 1992 16B
- SGAA 1992 16B(1)
- SGAA 1992 16B(2)
- SGAA 1992 16B(2)(a)
- SGAA 1992 16B(2)(b)
- SGAA 1992 16B(2)(c)
- SGAA 1992 16B(2)(d)
- SGAA 1992 17A(1)
- SGAA 1992 17A(2)
- SGAA 1992 18A(3)
- SGAA 1992 18C
- SGAA 1992 18C(1)
- SGAA 1992 18C(1)(c)
- SGAA 1992 18C(2)
- SGAA 1992 18D
- SGAA 1992 18D(1)(a)
- SGAA 1992 18D(1)(b)
- SGAA 1992 18D(1)(d)
- SGAA 1992 18D(2)
- SGAA 1992 19A(2)
- SGAA 1992 19B(1)
- SGAA 1992 19B(2)
- SGAA 1992 19B(3)
- SGAA 1992 20A(1)(a)
- SGAA 1992 20A(2)
- SGAA 1992 20A(3)
- SGAA 1992 20B
- SGAA 1992 20C(1)
- SGAA 1992 20C(2)
- SGAA 1992 20C(3)
- SGAA 1992 Pt 3A
- SGAA 1992 32C
- SGAA 1992 32CA

- SGAA 1992 32F
- SGAA 1992 33(1)
- SGAA 1992 33(2)
- SGAA 1992 33(2)(a)
- SGAA 1992 33(2)(b)
- SGAA 1992 36(1)
- SGAA 1992 36(2)
- SGAA 1992 36(2)(a)
- SGAA 1992 36(3)
- SGAA 1992 36(4)
- SGAA 1992 37
- SGAA 1992 49(1)
- SGAA 1992 49(3)
- SGAA 1992 59
- SGAA 1992 59A
- SGAA 1992 5s9B
- SGAA 1992 59C
- SGAA 1992 59D
- SGAA 1992 59E
- Superannuation Guarantee
(Administration) Regulations 2018 13C
- Superannuation Guarantee
(Administration) Regulations 2018 13C(1)
- Superannuation Guarantee
(Administration) Regulations 2018 13C(2)
- Superannuation Guarantee
(Administration) Regulations 2018 13C(3)
- Superannuation Guarantee
(Administration) Regulations 2018 13C(4)
- Superannuation Guarantee
(Administration) Regulations 2018
13C(4)(b)
- Superannuation Guarantee
(Administration) Regulations 2018 13D
- Superannuation Guarantee Charge Act
1992 6
- Superannuation Guarantee Charge
Amendment Act 2025
- TAA 1953 Pt IIA
- TAA 1953 8AAD
- TAA 1953 16B
- TAA 1953 Sch 1 268-10(1)
- TAA 1953 Sch 1 268-20
- TAA 1953 Sch 1 388-50(1)
- Treasury Laws Amendment (Payday
Superannuation) Act 2025

Cases relied on:

- Australian Turf Club Ltd and
Commissioner of Taxation [2024] AATA
2728; 2024 ATC 10-732

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|--|---|
| <ul style="list-style-type: none">– Batagol v Federal Commissioner of Taxation [1963] HCA 51; 109 CLR 243; [1964] ALR 480; (1963) 13 ATD 202– Commissioner of Taxation v Racing Queensland Board [2019] FCAFC 224; 2019 ATC 20-276; 374 ALR 241; 111 ATR 17– The Commissioner of Taxation of the Commonwealth of Australia v Ryan, | <p>Gwenda Blanche [1998] FCA 320; 82 FCR 345; 98 ATC 4323; 38 ATR 464</p> <p><i>Other references:</i></p> <ul style="list-style-type: none">– Explanatory Memorandum to the Treasury Laws Amendment (Payday Superannuation) Bill 2025 and the Superannuation Guarantee Charge Amendment Bill 2025 |
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ATO references

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