



# ***PS LA 2006/5 - Payment of superannuation contributions by employers after the superannuation guarantee quarterly cut-off dates***

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## Practice Statement Law Administration

**PS LA 2006/5**

This practice statement is withdrawn with effect from 7 July 2008.  
A replacement product is not being prepared at this time.

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**FOI status: may be released**

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*This practice statement is issued under the authority of the Commissioner and must be read in conjunction with Law Administration Practice Statement PS LA 1998/1. It must be followed by Tax office staff unless doing so creates unintended consequences or is considered incorrect. Where this occurs Tax office staff must follow their business line's escalation process.*

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**SUBJECT:** Payment of superannuation contributions by employers after the superannuation guarantee quarterly cut-off dates

**PURPOSE:** To explain how tax officers are required to treat superannuation contributions made by an employer for an employee after the relevant quarterly cut-off dates in the *Superannuation Guarantee (Administration) Act 1992*.

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### STATEMENT

1. An employer is liable for the superannuation guarantee charge (SGC) for a particular quarter of a financial year if the employer:
  - fails to make sufficient contributions for the benefit of all its employees for that quarter
  - does not make contributions for that quarter until after the cut-off date for the quarter, or
  - fails to make sufficient contributions that comply with the choice of fund requirements.
2. This practice statement applies in the second case, that is when an employer makes a superannuation contribution to a complying superannuation fund or retirement savings account (hereafter referred to as a 'contribution') for the benefit of an employee after the 28<sup>th</sup> day of the month following the end of the relevant quarter (the quarterly cut-off dates).<sup>1</sup> It provides direction to tax officers as to how those contributions are to be applied under the *Superannuation Guarantee (Administration) Act 1992* (SGAA).
3. In determining how those contributions are to be applied under the SGAA, a tax officer must consider the operation of both section 23A and subsection 23(7) of the SGAA.
4. All legislative references in this practice statement are to the SGAA, unless otherwise specified.

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<sup>1</sup> The quarterly cut-off dates are 28 January, 28 April, 28 July and 28 October.

### **Section 23A – offsetting of contributions against an employer’s SGC**

5. Section 23A was inserted into the SGAA by *Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Act 2005* and has effect for contributions made on or after 1 January 2006 in respect of the quarter ended 31 December 2005 and subsequent quarters.
6. Under section 23A, an employer who makes a contribution for an employee after the cut-off date for a quarter but before the end of the 28<sup>th</sup> day of the second month following the end of the quarter<sup>2</sup>, can elect to have the contribution offset against the employer’s SGC for the quarter that relates to that employee. The contribution is offset against the employer’s liability to pay SGC to the extent that the liability relates to that part of the employer’s individual superannuation guarantee shortfall (which includes any choice shortfall) and nominal interest components for the quarter that relate to the employee.
7. The election to offset the contribution must be made within 4 years after the employer’s SGC for the quarter became payable. An employer may offset the whole or part of the amount of the contribution against the corresponding SGC. The election to offset is irrevocable and the amount offset cannot be taken into account under section 23A in relation to any other quarter.

### **Subsection 23(7) – contributions made before a quarter**

8. Subsection 23(7) enables a contribution made by an employer for an employee to be taken into account as a contribution for the quarter in which it is made or any later quarter that starts within 12 months of the date on which the contribution is made. This subsection allows a contribution to be taken into account as an advance payment of an employer’s SG obligation.
9. Whether all, or a part of, a contribution made after the quarterly cut-off dates can be applied by a tax officer under subsection 23(7) depends on whether the contribution relates to employees who continue to be employed by the employer. A contribution by an employer for an employee for a particular quarter made after the cut-off date for the quarter cannot be taken into account under subsection 23(7) for that employee if the employee is not employed by the employer in the quarter in which the contribution is made or a subsequent quarter. The contribution for the former employee may, however, be offset against the employer’s liability to the SGC for the former employee under section 23A if the requirements in that section are satisfied. See Example 8 at paragraphs 43 to 45 for an illustration of this principle.
10. Further, a contribution made by an employer for the benefit of an employee for a particular quarter which is made after the cut-off date for the quarter, cannot be applied under subsection 23(7) in relation to a different employee even if that different employee was engaged by the employer in the quarter to which the contribution relates.

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<sup>2</sup> For the quarter beginning on 1 October 2005 and later quarters, the 28<sup>th</sup> day of the second month following the end of the quarter is the due date for the lodgment of the superannuation guarantee (SG) statement for the quarter. The due dates for the lodgment of the statement are 28 February, 28 May, 28 August and 28 November. For quarters prior to 1 October 2005, the due dates for lodgment of the SG statement were 14 February, 14 May, 14 August and 14 November.

11. Even if a tax officer applies a contribution as an advance payment for an employee for a particular quarter under subsection 23(7), the officer must still consider whether any SGC is payable for any quarter to which the contribution is applied. For example, an employee's earnings base for the quarter to which the contribution is applied might be higher than the quarter to which the contribution originally related. In addition, for a quarter commencing after 30 June 2005, the contribution may not satisfy the choice of fund requirements.

#### **Interaction of section 23A and subsection 23(7)**

12. Where a contribution for a quarter satisfies the conditions of section 23A and the employer elects that the contribution (or part of the contribution) be offset against the SGC for the quarter, any amount offset against the SGC for the quarter cannot be taken into account as a current or future contribution under subsection 23(7) (subsection 23A(5)).
13. If a contribution does not meet the requirements in section 23A, or the employer does not choose to make the election under section 23A, a tax officer **must**, where possible, apply the contribution under subsection 23(7). See Example 3 at paragraphs 30 to 32 for an illustration of this principle.
14. If an employer later elects to have a contribution (that meets the requirements of section 23A) offset against their liability to the SGC, the amount of contribution which is offset can no longer be used as a current or future contribution under subsection 23(7). In this situation, the employer may have an SGC liability for the later quarter in which the contribution was originally applied under subsection 23(7). See Example 9 at paragraphs 46 to 48 for an illustration of this principle.
15. An employer may elect under section 23A to offset only part of the amount of the contribution against the SGC for the quarter in which the SGC is payable. In this situation, the amount not offset may be applied under subsection 23(7).
16. Further, any amount of a contribution that meets the requirements of section 23A that is in excess of the employee's individual superannuation guarantee shortfall and nominal interest component for the relevant quarter, cannot be offset under section 23A. Instead, this excess amount must, where possible, be applied to the current quarter, or to a future quarter under subsection 23(7).<sup>3</sup>
17. Attachment A outlines the decision making process involved in regard to the application and interaction of section 23A and subsection 23(7) as discussed.

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<sup>3</sup> See Example 9.2 in the Explanatory Memorandum to the Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005.

### **Election to offset under section 23A after subsection 23(7) and Part 8 has been applied**

18. An employer who makes a contribution that satisfies the conditions of section 23A has 4 years from the date the employer's SGC for the quarter became payable to elect that the contribution be offset against the SGC for the quarter. The day when the SGC becomes payable under the SGAA depends on when the employer lodges an SG statement<sup>4</sup> with the Tax Office or when the Tax Office issues a default assessment. The lodgment of the SG statement or the issuance of the default assessment may not occur for many months or even years after the end of the respective quarter to which the SG statement or default assessment relates. In many of these situations, the employer may have paid the SGC to the Tax Office which may have then distributed the employee entitlements of the SGC to a fund or retirement savings account under Part 8 of the SGAA.
19. It is therefore conceivable that an employer may elect to offset a contribution against the SGC for the quarter after the relevant components of the SGC have been distributed to a fund or retirement savings account.
20. Further, because of the 4 year time limit for offsetting a contribution, the Tax Office may have applied the contribution under subsection 23(7) before the employer makes the election to offset.
21. If the employer has paid the SGC for a particular quarter and later decides to offset a contribution made for the quarter under section 23A, an amended assessment of the SGC must issue for the quarter. If the contribution has been applied under subsection 23(7), an assessment of the SGC must be issued (or amended assessment if there was any SGC payable) for the particular quarter or quarters in which the contribution was applied. Any amounts paid to a fund or retirement savings account under Part 8 of the SGAA must be recovered from the fund, or retirement savings account.<sup>5</sup>
22. Attachment B outlines the process involved in this situation.

### **Payment of salary or wages to a former employee in a quarter following the termination of employment**

23. There may be situations where an employee ceases employment in a particular quarter and receives a payment of salary or wages in respect of their former employment in the quarter (or a later quarter) following the termination of employment. Amendments made to the SGAA by the *Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Act 2005* ensures that an employer will have an SG obligation in respect of salary or wages paid to a former employee in a quarter following the termination of the employment relationship.<sup>6</sup> If the employer makes a contribution in respect of the salary or wages paid to the former employee after the cut-off date for the quarter in which the salary or wages are paid but before the 28<sup>th</sup> day of the second month following the end of the quarter, the employer can elect to utilise the offsetting rule in section 23A. The contribution cannot be applied under subsection 23(7) for the quarter in which the contribution is made or a future quarter as the employee is no longer in employment with that employer. Example 10 at paragraph 49 illustrates the application of this principle.

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<sup>4</sup> If the employer lodges the SG statement before the lodgment date for a quarter, the SGC is payable on the lodgment day.

<sup>5</sup> Section 70.

<sup>6</sup> This amendment has effect for salary or wages paid on or after 1 January 2006.

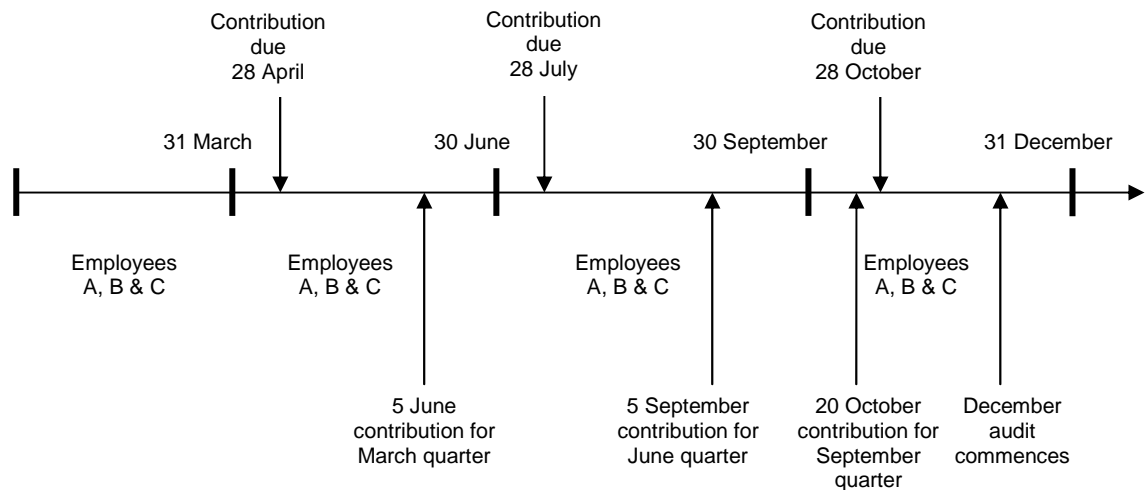
## EXPLANATION

24. The following examples illustrate the application of the instructions and principles explained in this practice statement to hypothetical scenarios involving contributions made after the quarterly cut-off dates.

### Examples

#### **Example 1: Contribution made after the quarterly cut-off dates – same employees**

25. An employer is advised of an SG audit in December. The audit covers the quarters ending 31 March, 30 June and 30 September. The employer advises it had three employees, A, B and C, in each of the quarters. A, B and C are still employees in the December quarter. A single contribution was made for the employees for each quarter as follows: on 5 June for the March quarter; on 5 September for the June quarter and on 20 October for the September quarter. The employees earn the same amounts in each of the quarters covered by the audit, including the December quarter.



26. The following outcomes will arise in relation to these facts.

#### *March quarter*

- The employer is liable to the SGC for A, B and C for the March quarter as no contribution was made before the cut-off date of 28 April.

#### *June quarter*

- By virtue of subsection 23(7), the contribution made on 5 June may be counted towards the employer's SG obligations for A, B and C for the June quarter and any subsequent quarter commencing within 12 months of the date the contribution was made.
- As the contribution made on 5 June for A, B and C satisfies the employer's SG obligations for the June quarter, no SGC will arise for the employees for the June quarter.

#### *September quarter*

- The contribution made on 5 September cannot be taken into account for the June quarter as the contribution was made after the cut-off date for the quarter.

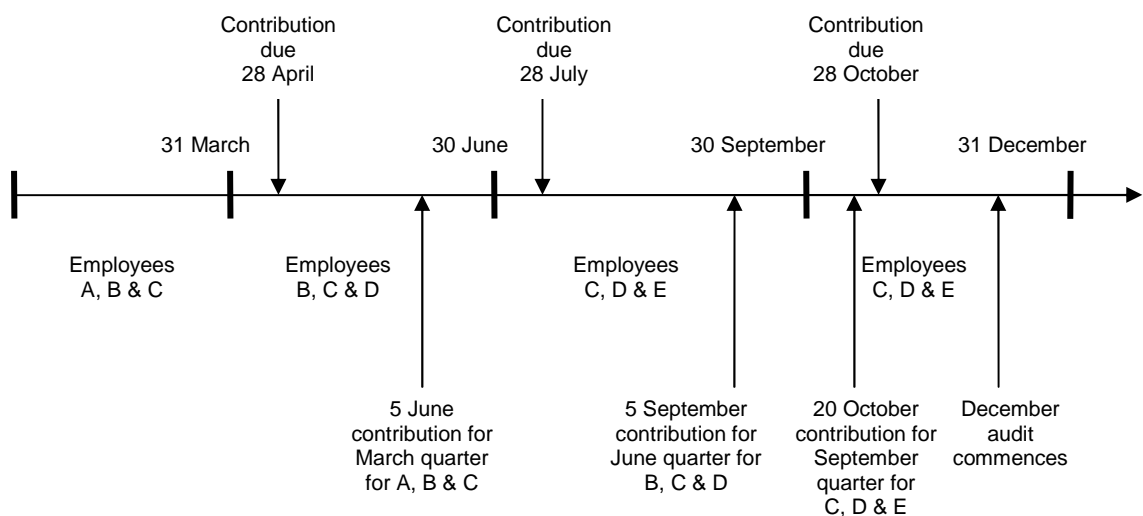
- The contribution made on 5 September may however be applied under subsection 23(7) towards the employer's SG obligations for A, B and C for the September quarter and any subsequent quarter commencing within 12 months of the date the contribution was made.
- No SGC arises for the September quarter for A, B and C because the contribution made on 5 September satisfies the employer's SG obligations for the employees for the September quarter.

*December quarter*

- The contribution made on 20 October can be applied under subsection 23(7) as an advance payment for the December quarter. As the contribution satisfies the employer's SG obligations for the December quarter, the employer will not be liable for the SGC for the December quarter.

**Example 2: Contribution made after the quarterly cut-off dates – change of employees**

27. An employer is advised of an SG audit in December. The audit covers the quarters ending 31 March, 30 June and 30 September. The employer advises it has had five employees, A, B, C, D and E in that period. A, B and C were employed in the March quarter. B, C and D were employed in the June quarter. C, D and E were employed in the September quarter. C, D and E are still employed at the time of the audit.
28. A single contribution was made for the employees for each quarter. A contribution was made on 5 June for the entitlements of A, B and C for the March quarter. A contribution was made on 5 September for the entitlements of B, C and D for the June quarter. A contribution was made on 20 October for the entitlements of C, D and E for the September quarter. The employees earn the same amount in each of the quarters covered by the audit, including the December quarter.



29. The following outcomes will arise in relation to these facts.

*March quarter*

- The employer is liable to the SGC for A, B and C for the March quarter as no contribution was made before the cut-off date of 28 April.

*June quarter*

- The contribution made on 5 June is for A, B and C. As B and C were still employed in the June quarter, the amounts attributable to B and C may, by virtue of subsection 23(7) be counted towards the employer's SG obligations for them for the June quarter and any subsequent quarter commencing within 12 months of the date the contribution was made.
- No SGC arises for B and C for the June quarter because the contribution made on 5 June is sufficient to satisfy the employer's SG obligation for these employees for the June quarter.
- The employer is liable to the SGC for D for the June quarter as no contribution has been made by the employer for the benefit of D by the cut-off date of 28 July. No part of the contribution made on 5 June can be applied to meet the employer's SG obligations for D.

*September quarter*

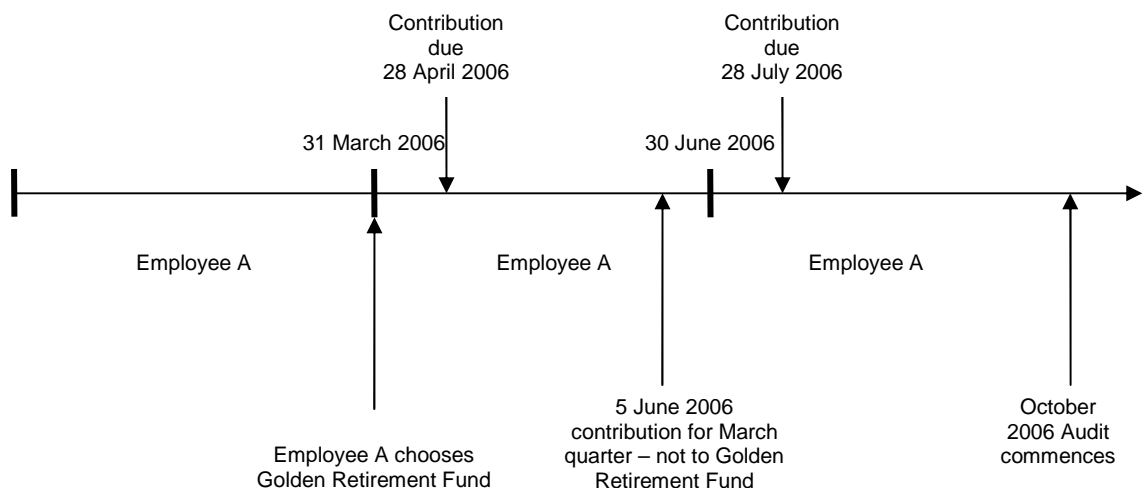
- The contribution made on 5 September is for B, C and D. As C and D were still employed in the September quarter, the amounts attributable to C and D may, by virtue of subsection 23(7) be counted towards the employer's SG obligations for them for the September quarter and any subsequent quarter commencing within 12 months of the date the contribution was made.
- No SGC arises for the September quarter for C and D because the contribution made on 5 September is sufficient to satisfy the employer's SG obligation for these employees for the September quarter.
- Although no contribution was made during the September quarter by the employer for the benefit of E, a contribution made within the period of 28 days after the end of the quarter may be taken into account as having been made in a quarter. Accordingly, the contribution made on 20 October for the benefit of C, D and E can be taken into account in working out the employer's liability for SGC for the September quarter.
- As the contribution made on 20 October is sufficient to satisfy the employer's SG obligations in respect of E for the September quarter, the employer is not liable to the SGC for E for the quarter.

*December quarter*

- If the contribution made on 20 October exceeds the amount the employer was required to make for its employees for the September quarter, any remainder can be applied towards the employer's SG obligations for C, D and E for the December quarter under subsection 23(7). If the contribution made on 20 October is sufficient to satisfy the employer's SG obligations in respect of these employees for the December quarter, the employer will not be liable to the SGC for C, D and E for the quarter.

**Example 3: Contribution made after the quarterly cut-off date and choice**

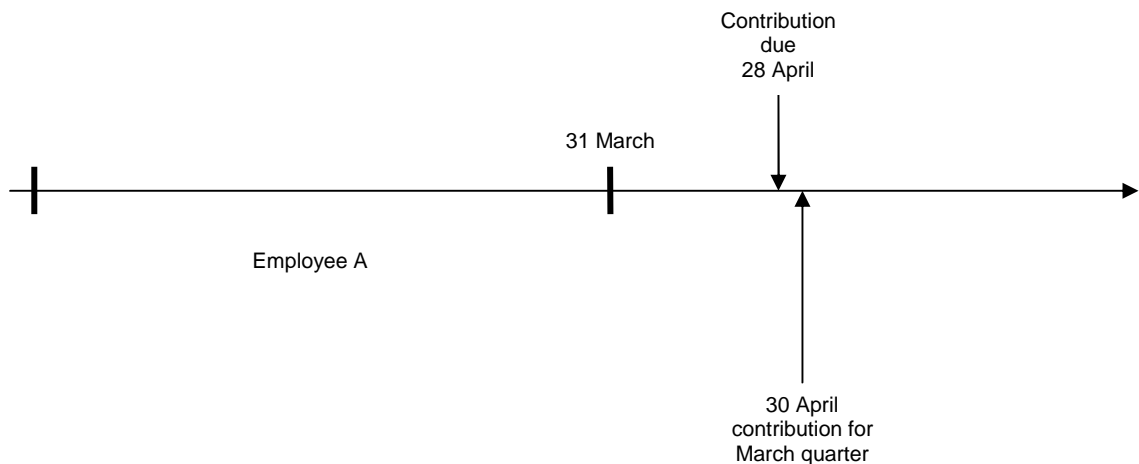
30. An employer is advised of an SG audit in October 2006. The audit covers the quarters ending 31 March and 30 June 2006. The employer has one employee, A. The employer gave A the standard choice form on 18 July 2005. However, A did not choose a fund until 31 March 2006. A's chosen fund is the Golden Retirement Fund.
31. The employer makes a contribution on 5 June 2006 for A for the March quarter. The contribution was *not* made to the Golden Retirement Fund, A's chosen fund.



32. The following outcomes will arise in relation to these facts.
- The employer is liable to the SGC for A for the March quarter as no contribution was made before the cut-off date of 28 April 2006.
  - The employer cannot elect that the contribution made on 5 June 2006 be offset under section 23A as the contribution for the March quarter was not made before the end of the 28<sup>th</sup> day of the second month after the end of the quarter (that is, 28 May 2006).
  - However, by virtue of subsection 23(7), the contribution made on 5 June 2006 for A may be counted towards the employer's SG obligations for A for the June quarter and any subsequent quarter commencing within 12 months of the date the contribution was made.
  - If the employer does not make any further contributions for the June quarter for the benefit of A to the Golden Retirement Fund, A's chosen fund, SGC will be payable for A for the June quarter due to the employer's failure to fulfil its choice of fund obligations.

**Example 4: Offsetting of a contribution made after 1 January 2006**

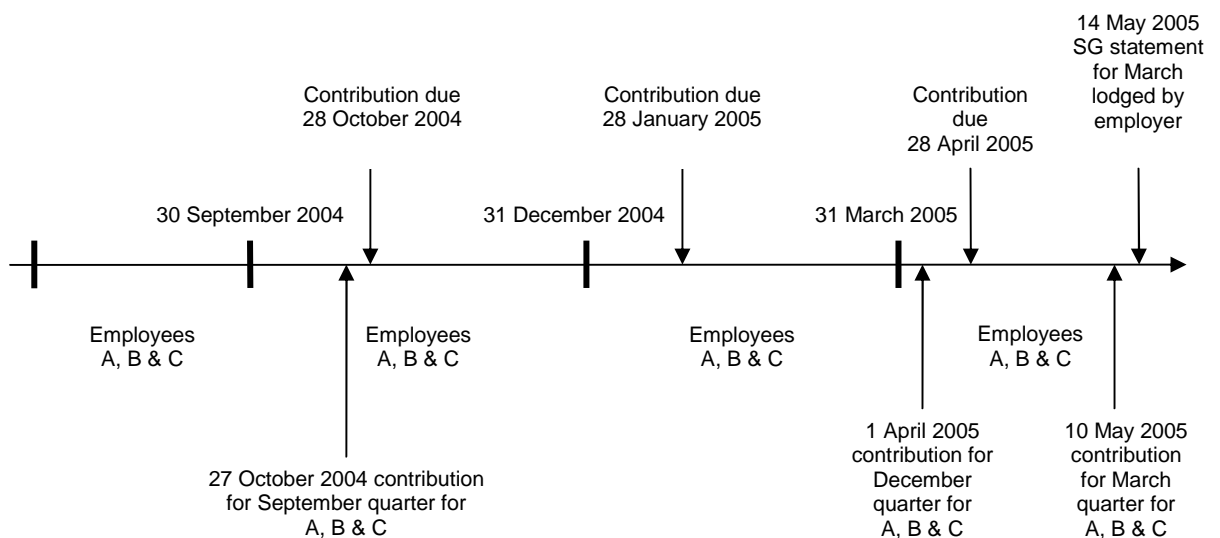
33. An employer makes a contribution for its employee, A, after the cut-off date for the quarter, but before the end of the 28<sup>th</sup> day of the second month after the end of the quarter (contribution made on 30 April for the March quarter). The contribution is made in compliance with the choice of fund requirements.



34. The following outcomes will arise in relation to these facts:
- The employer is liable for the SGC for the March quarter as the contribution for A was made after the cut-off date of 28 April.
  - The employer can elect to have the contribution offset the employer's SGC for the quarter that relates to employee A as the contribution satisfies the requirements of section 23A.
  - That portion of the SGC that relates to employee A's entitlements (the individual superannuation guarantee shortfall and nominal interest components) can be offset to the extent of the contribution made. Any part of the SGC still outstanding after offsetting the contribution must be paid by the employer to the Tax Office.
  - Any amount of the contribution that is in excess of the employee's individual superannuation guarantee shortfall and nominal interest components of the SGC for the March quarter cannot be offset. Instead, this excess amount can be applied in the June quarter, or to a future quarter under subsection 23(7) (provided that A's employment with the employer is ongoing).
  - If the employer does not elect that the contribution be offset against the SGC for the March quarter under section 23A, the contribution can be taken into account under subsection 23(7) as a contribution for A for the June quarter, or for any subsequent quarter beginning within 12 months of the date the contribution was made (provided that A's employment with the employer is ongoing).

**Example 5: Contributions made after the quarterly cut-off dates**

35. An employer is audited to determine their compliance with their SG obligations for the quarters ending 30 September 2004 and 31 December 2004. The employer advises that it has three employees, A, B and C, in each of the quarters. The employees are still employed by the employer at the commencement of the audit. Contributions were made for the employees for each quarter as follows: on 27 October 2004 for the September quarter and on 1 April 2005 for the December quarter. The contributions made on 27 October 2004 were sufficient to satisfy the employer's SG obligations for its employees for the September quarter. The employer also lodged an SG statement on 14 May 2005 for the quarter ending 31 March 2005 indicating an SG shortfall for all three employees for the March quarter. The contributions for this quarter for those employees were made on 10 May 2005.



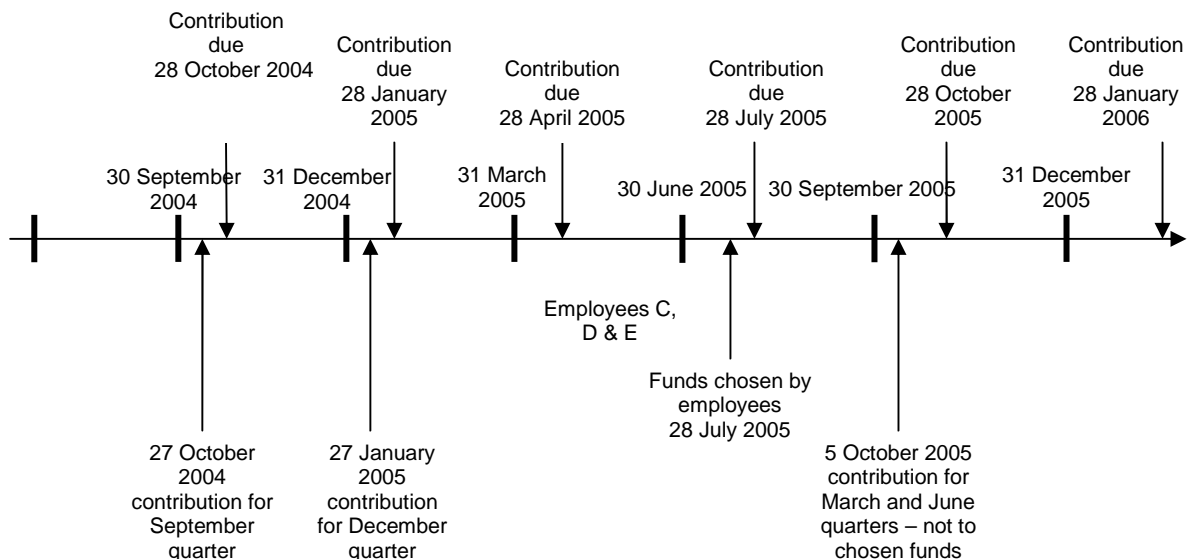
36. The following outcomes will arise in relation to these facts:

- The employer will not be liable for the SGC for the quarter ending 30 September 2004 as the contributions for A, B and C were made by the cut-off date for the quarter (that is, by 28 October 2004) and the contributions were sufficient to satisfy the employer's SG obligations for the quarter.
- The employer is liable to the SGC for A, B and C for the quarter ending 31 December 2004 as no contributions were made by the cut-off date for the quarter (that is, by 28 January 2005).
- The lodging of the SG statement by the employer for the quarter ending 31 March 2005 is taken to be an assessment of the employer's SGC for the quarter. However, as the contributions on 1 April 2005 for A, B and C were made within a period of 28 days after the end of the March quarter, the contributions can count towards the employer's SG obligations for A, B and C for the March quarter. Accordingly, an amended assessment of the employer's SGC liability for the quarter ending 31 March 2005 must be issued. Assuming that A, B and C earn the same amounts in the December and March quarters and the contributions are sufficient to satisfy the employer's SG obligations for the March quarter, the SGC assessment will be amended to nil.

- The contributions made on 10 May 2005 for A, B and C can be applied towards the employer's SG obligations for the quarter ending 30 June 2005 and for subsequent quarters within 12 months from the date of the making of the contributions, provided that A, B and C are still employed with the employer in those quarters.

**Example 6: Contributions made after the quarterly cut-off dates and choice**

37. An employer is advised of an SG audit in July 2006. The audit covers all four quarters of the 2005 financial year and the quarters ending 30 September 2005 and 31 December 2005. The employer advises that it has 3 employees, C, D and E in that period. The employees are still employed by the employer at the time of the audit. The employer offered choice to the three employees on 2 July 2005. All three employees made valid choices on 28 July 2005.
38. The employer made contributions for C, D and E for each quarter as follows: on 27 October 2004 for the quarter ending 30 September 2004; on 27 January 2005 for the quarter ending 31 December 2004; on 5 October 2005 for the quarters ending 31 March 2005 and 30 June 2005. No contributions were made for the quarters ending 30 September 2005 and 31 December 2005.
39. The contributions made for C, D and E for the September and December 2004 quarters were sufficient to satisfy the employer's SG obligations for the quarters in respect of the employees. The contributions made on 5 October 2005 were made to the employer fund nominated on the standard choice form, not the employees' chosen funds.

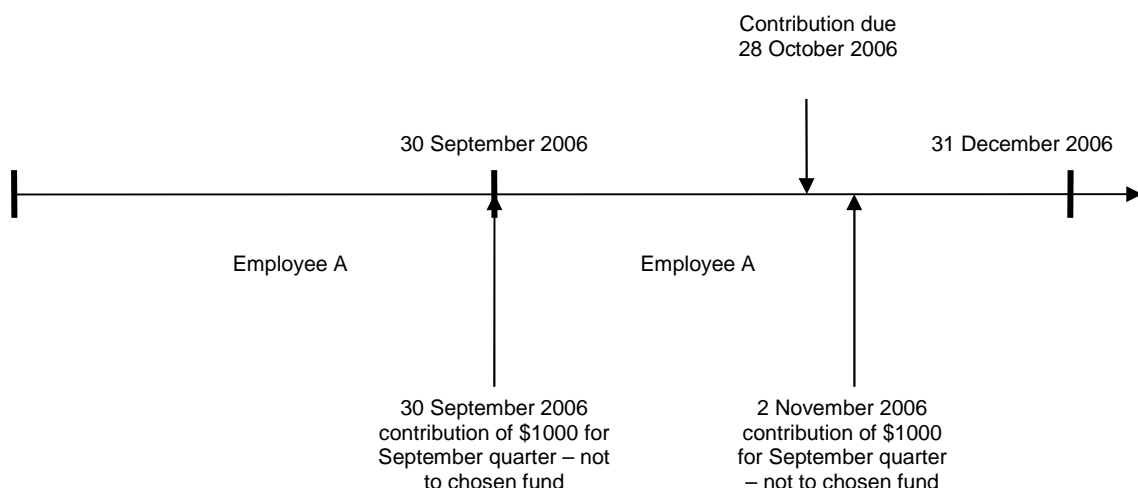


40. The following outcomes will arise in relation to these facts:
  - The employer will not be liable for the SGC for the quarters ending 30 September 2004 and 31 December 2004 as the contributions for C, D and E were made by the cut-off dates for the quarters and the contributions were sufficient to satisfy the employer's SG obligations for the quarters.

- The employer is liable to the SGC for C, D and E for the quarters ending 31 March 2005 and 30 June 2005 as no contribution was made before the cut-off dates for these quarters.
- As the contributions made on 5 October 2005 for C, D and E were made within a period of 28 days after the end of the quarter ending 30 September 2005, the contributions can count towards the employer's SG obligations for C, D and E for this quarter. Further, the contributions may be taken into account in subsequent quarters commencing within 12 months from the date of the making of the contributions, provided that C, D and E are still employed with the employer in those quarters.
- The employer will however be liable for the SGC for the quarter ending 30 September 2005 due to the employer's failure to fulfil its choice of fund obligations (the contributions made on 5 October 2005 were not made to the employees' chosen funds).
- If the contributions made on 5 October 2005 exceed the amount the employer was required to make for its employees for the quarter ending 30 September 2005, any remainder can be applied towards the employer's SG obligations for the quarter ending 31 December 2005. The employer will still be liable to the SGC for this quarter as the contributions were not made in accordance with the choice of fund requirements.

**Example 7: Offsetting of a contribution made after the quarterly cut-off date**

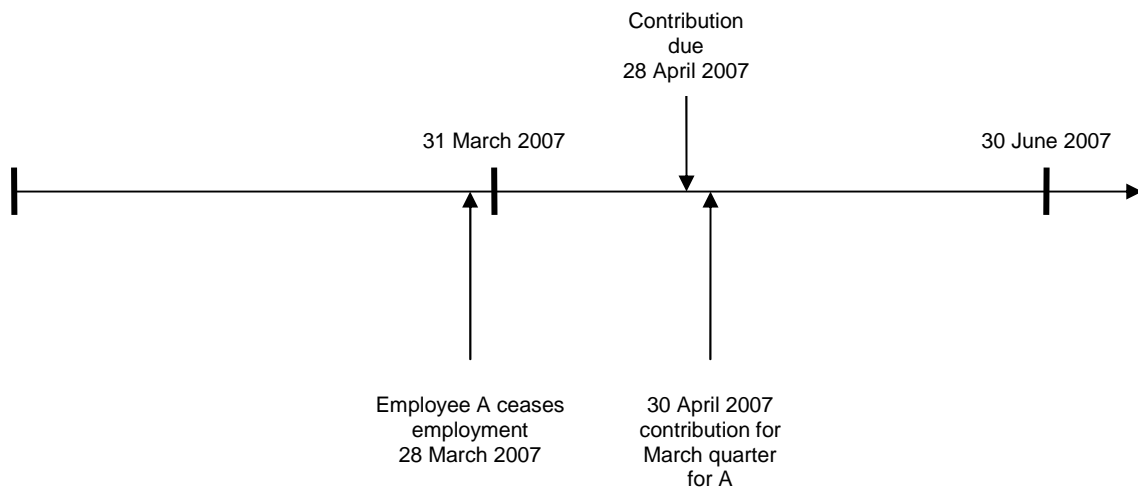
41. An employer makes a contribution of \$1,000 on 30 September 2006 and another contribution of \$1,000 on 2 November 2006 to superannuation fund X as contributions for its employee, A for the September quarter. Employee A chose a fund (fund Y) on 28 July 2006. The amount of contributions needed to satisfy the employer's SG obligations in respect of A for the September quarter is \$1,500.



42. The employer will be liable to the SGC for the September quarter because it did not make sufficient contributions by the cut-off date for the quarter and it failed to fulfil its choice of fund obligations for the quarter. The employer can elect under section 23A to offset the contribution made on 2 November 2006 against the employer's SGC for the September quarter. Any excess amount that cannot be offset can be applied under subsection 23(7) towards the employer's SG obligations for the quarter ending 31 December 2006, or to a future quarter commencing within 12 months of the date the contribution was made.

**Example 8: Offsetting of a contribution made after the quarterly cut-off date – former employee**

43. Employee A terminates their employment with their employer on 28 March 2007. The employer makes the contribution necessary to satisfy the employer's SG obligations for the March quarter for employee A on 30 April 2007. The contribution satisfies the choice of fund requirements.

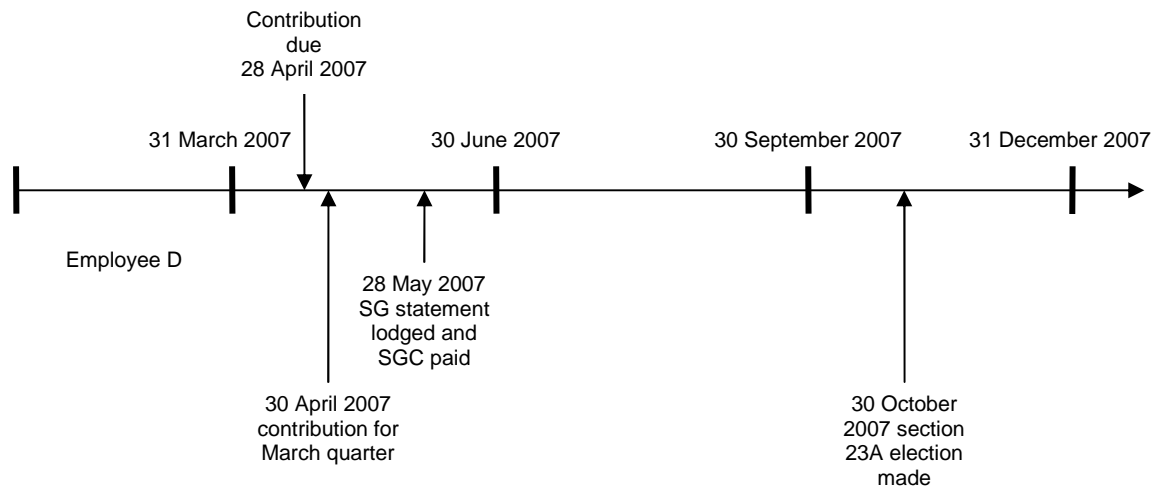


44. As the employer made the contribution after the cut-off date for the March quarter, the employer will be liable to the SGC for the quarter. The employer can elect under section 23A that the contribution made on 30 April 2007 be offset against the employer's SGC for employee A for the March quarter. The contribution cannot be applied under subsection 23(7) in the quarter ending 30 June 2007 as employee A was not in employment with the employer in that quarter.
45. If employee A had not ceased their employment with the employer and the employer did not make an election to offset the contribution under section 23A, the contribution can be applied under subsection 23(7) for the June quarter or a later quarter that starts within the 12 months from the date the contribution was made.

**Example 9: Contribution applied under subsection 23(7) but the employer later makes an election under section 23A**

46. An employer makes a contribution for the quarter ending 31 March 2007 for its employee, D, on 30 April 2007. The contribution is made in compliance with the choice of fund requirements. As the employer made the contribution after the cut-off date for the quarter, the employer is liable to the SGC for the quarter.

47. The employer lodges the SG statement and pays the SGC for the March quarter on 28 May 2007. As the employer had not, at the time of lodging the statement and paying the SGC, made an election under section 23A to offset the contribution made on 30 April 2007 against the employer's SGC for D for the March quarter, the contribution was applied under subsection 23(7) towards the employer's SG obligations for D for the quarter ending 30 June 2007. The contribution applied for the June quarter was sufficient to satisfy the employer's SG obligations for that quarter for employee D.

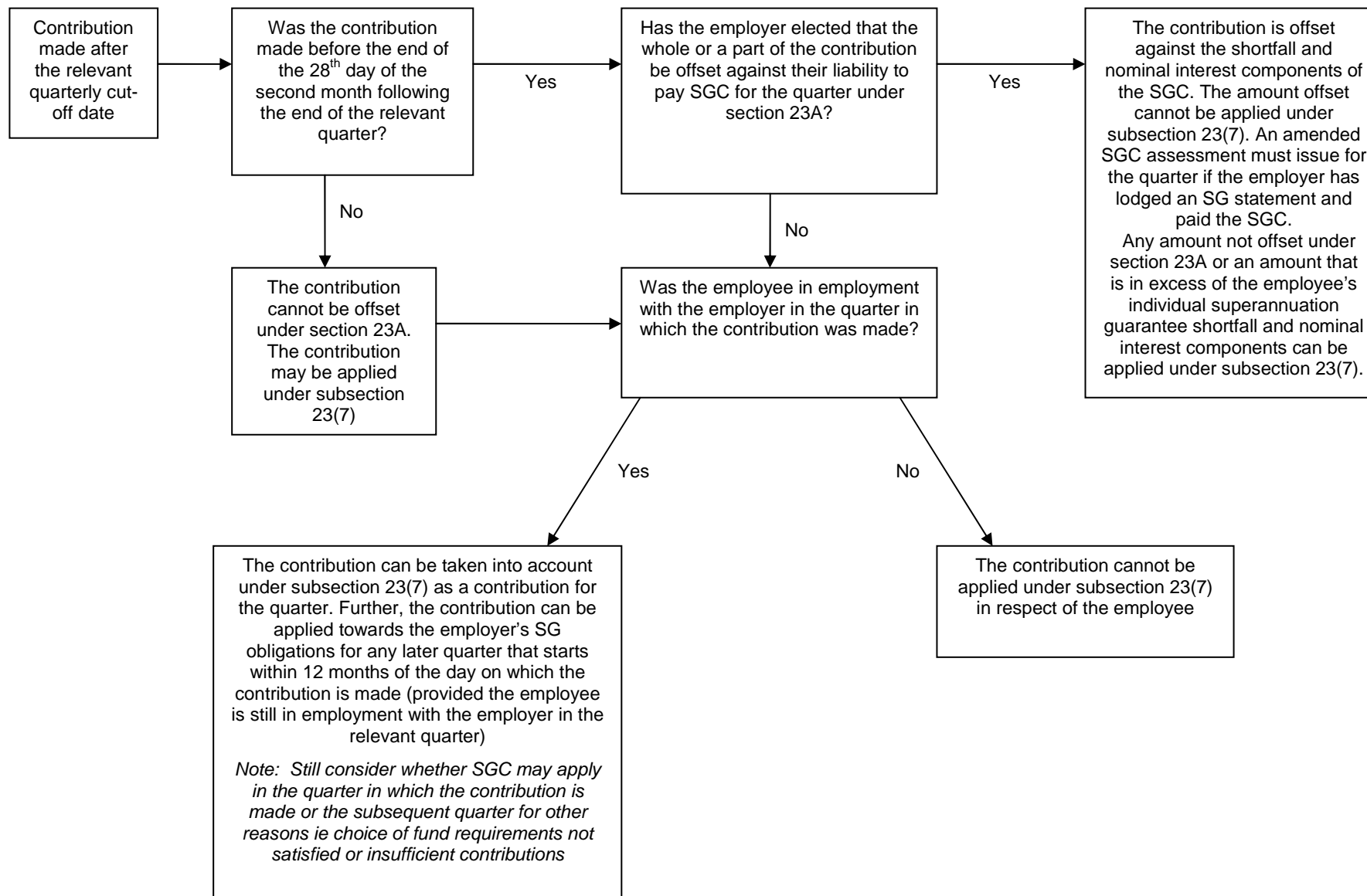


48. On 30 October 2007, the employer makes an election under section 23A that the entire amount of the contribution made on 30 April 2007 be offset against the employer's SGC for employee D for the quarter ending 31 March 2007. In this situation, an amended assessment of the employer's SGC liability for the quarter ending 31 March 2007 must be issued. Because the contribution made on 30 April 2007 for employee D was originally taken into account under subsection 23(7) for the June quarter and the contribution was sufficient to satisfy the employer's SG obligations for the quarter, the employer will subsequently be liable for the SGC for D the June quarter. An assessment of the employer's SGC liability for D must be issued for the June quarter.

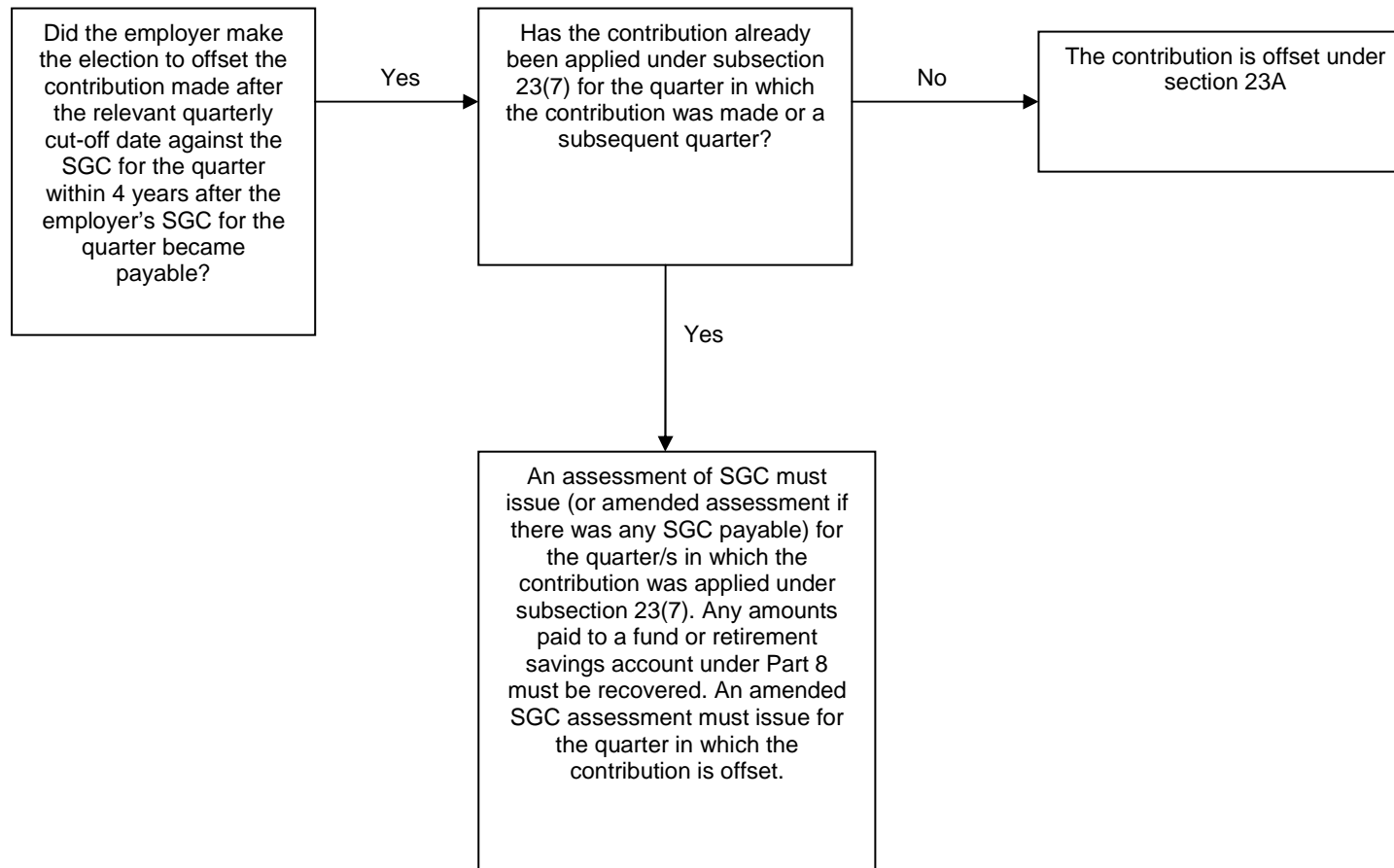
**Example 10: Payment of salary or wages to a former employee in a quarter following termination of employment – section 23A and subsection 23(7)**

49. An employee ceases employment on 28 March 2007. They receive a payment of salary or wages in connection with their former employment on 16 April 2007. The employer makes a contribution in respect of the payment on 1 August 2007. Because the contribution was made after the cut-off date for the quarter (28 July 2007), the employer will be liable to the SGC for the June 2007 quarter. However, as the contribution satisfies the requirements of section 23A, the employer will be able, if they so elect, to have the contribution made on 1 August 2007 offset against the SGC payable for the June quarter. The contribution cannot be applied under subsection 23(7) in the September quarter in respect of the employee as the employee was no longer in an employment relationship with the employer in the quarter.

**Attachment A – Application and interaction of section 23A and subsection 23(7)**



**Attachment B – Election to offset under section 23A after subsection 23(7) and Part 8 have been applied**



Subject references	superannuation guarantee, superannuation guarantee charge, choice of fund, offsetting
Legislative references	SGAA 23A SGAA 23A(5) SGAA 23(7) Part 8
Related public rulings	SGD 2003/6
Related practice statements	PS LA 2005/18
Case references	
File references	05/7625
Date issued:	7 July 2006
Date of effect:	7 July 2006
Other Business Lines consulted	All
Amendment history	<b>15 April 2008:</b> Contact officer details updated <b>8 February 2008:</b> Contact officer details updated <b>7 August 2006:</b> Paragraphs 10 and 29 – wording modified in order to clarify meaning