

Superannuation guarantee audits

What is the superannuation guarantee?

The super guarantee system was introduced on 1 July 1992. It affects most employers in Australia, so it is important you understand your obligations. Under the super guarantee law, you must pay super contributions (in addition to salary or wages) into a complying super fund or retirement savings account, so your eligible employees can enjoy the benefits of super in their retirement. You may also have to offer your eligible employees a choice of super fund. In this fact sheet, when we refer to a super fund, we mean a complying super fund or retirement savings account provider.

For more information about your super obligations, refer to Guide to superannuation for employers available on ato.gov.au/employersuper

What will happen in this audit?

During this audit we will collect information directly from you and check your super guarantee transactions.

We:

- will review the information you have provided and contact you if you need to provide any further information
- may require you to provide evidence from the super fund that the correct amount of super guarantee has been paid for your eligible employees
- will work out if you have met your super guarantee obligations.

You must provide accurate information within the timeframe allocated. We will not disclose your information to anyone else, including your spouse, unless we:

- have your authorisation to do so
- are authorised to do so by law.

What if you don't provide the information?

If you do not provide the requested information, we can:

- take legal action to obtain the information
- raise a debt based on the information we have – this is referred to as a super guarantee charge default assessment.

What happens after the audit?

After we have completed the audit, we will send you a:

- letter advising if you have or have not met your super guarantee obligations
- bill (notice of assessment) where a default or amended assessment is raised.

You must pay this amount directly to us.

If you lodge a super guarantee charge statement during the audit, this is a deemed assessment and no bill will be sent to you unless we amend the assessment.

You must pay the super guarantee charge, including any interest, by the due date.

We will complete your audit in the shortest possible time. Most audits are completed within 12 months. The time we take will depend on the:

- availability and amount of information required
- accuracy and timeliness of the information you provide.

If we determine that you haven't met your obligations we may disclose to all your affected employees (and any former employees) of the SG shortfall as it relates to them.



Are you an employer?

You are an employer for super guarantee purposes if you employ a person under a verbal or written employment contract on a full-time, part-time or casual basis. You may also be considered an employer if you:

- have some control over your workers
- make payments to a person under a contract for their labour, even if the person quotes an Australian business number (ABN)
- are responsible for paying salary or wages
- have the power to hire or dismiss workers.

You are also considered an employer and have to pay super for your eligible employees if you are a:

- non-resident employer who has employees working in Australia
- government organisation, statutory authority or municipal body
- tax-exempt organisation
- family company or trust paying salary or wages to family members (including yourself) who work in the business.

Who is an employee?

For super guarantee purposes, an employee is generally an individual (including a director) who receives payment in the form of salary, wages or director's fees in return for their labour or services. This also includes a person who is engaged under a contract (verbal or written) that is wholly or principally for their labour. Eligible employees are workers who are entitled to be paid super contributions by their employer.

For more information about your obligations, visit our website at ato.gov.au/employersuper or phone us on **13 10 20**.

If you employ contractors, we can help you determine if your contractors are considered employees for super guarantee purposes – use our Employee/contractor decision tool. Visit ato.gov.au/employersuper – 'Contractors' – then select Super for contractors.

How much super guarantee (SG) do you have to pay?

You must pay a minimum of 9.5% of your employee's ordinary time earnings.

The SG rate increased to 9.5% on 1 July 2014 and is legislated to increase further on 1 July 2021.

SG rate

Before 1 July 2013	9.00%
From 1 July 2013 to 30 June 2014	9.25%
From 1 July 2014 to 30 June 2021	9.50%

For more information, visit ato.gov.au/employersuper

Ordinary time earnings are generally what your employees earn for their ordinary hours of work, including:

- over-award payments
- commissions
- shift loading
- bonuses
- allowances.

Ordinary time earnings do not include overtime that is paid for work performed outside of ordinary hours.

For more information on ordinary time earnings, visit ato.gov.au/employersuper or phone us on **13 10 20**.

When do you pay super guarantee contributions?

Super contributions have to be paid for each eligible employee to the correct super fund at least four times a year, by the quarterly due dates shown in the following table.

Quarter	Period	Payment cut-off date
1	1 July – 30 September	28 October
2	1 October – 31 December	28 January
3	1 January – 31 March	28 April
4	1 April – 30 June	28 July

You can pay contributions more regularly than quarterly if you want to – for example, you can pay fortnightly or monthly, as long as the total amount you owe for a quarter is paid by the quarterly due date. As you may also need to pay super under an award or other contract, you should also check that you meet requirements set out in any relevant award or contract. An advantage of paying your employees' super guarantee contributions on time and in full is that the contributions are fully tax deductible. If you have 19 or fewer employees, you can use the free Small Business Superannuation Clearing House service to make paying your super guarantee simpler. You can find out more or register for the service by:

- visiting ato.gov.au/sbsch
- phoning **1300 660 048**.

Can employees choose their own super fund?

You are required to offer a choice of super fund to eligible employees. You must:

- give your employees the option to choose the super fund that receives their super guarantee contributions
- action your employees' valid choice nominations within two months
- pay contributions to a fund that meets the choice requirements
- not charge your employees a fee for making contributions to a super fund.

If your employees do not choose a super fund, you can pay their super guarantee contributions to your employer-nominated super fund (also known as a default fund). From 1 January 2014, the employer nominated fund must also be one that offers a MySuper product. For more information, visit ato.gov.au/MySuper

Your employer-nominated fund must offer minimum levels of life insurance death cover to members. If you do not meet the above requirement, the choice liability may apply.

The choice liability applies where you have paid super guarantee contributions to a complying fund for your employee and you have either:

- not paid to the fund chosen by the employee
- not given your employees a Standard choice form (NAT 13080) within 28 days of the day they started working with you.

The choice liability is an amount equal to 25% of the contributions that are paid to the fund.

What do you do if you haven't met your super obligations?

If you haven't met your super obligations as an employer, you have to lodge a Superannuation guarantee charge statement and pay the super guarantee charge to us.

For periods:

- before 1 July 2003, you must use a Superannuation guarantee instruction guide and statement (NAT 2125)
- from 1 July 2003, you will need to lodge a Superannuation guarantee charge (SGC) statement – quarterly. You can do this by:
 - Completing the form online and electronically submitting it via the Business Portal (available if you have an Auskey)
 - Completing the Superannuation guarantee charge statement and calculator tool and posting the generated paper form to us (available on our website ato.gov.au)
 - Completing a paper version of the form (available on our website by searching '9599')

What is the super guarantee charge?

The super guarantee charge (SGC) is a charge you have to pay to us if you:

- do not pay enough super contributions for your employee (this is called a super guarantee shortfall)
- do not pay super contributions for the quarter at all
- do not pay super to your employee's chosen super fund (this is called a choice liability)
- pay a super contribution to a fund after the due date for payment.

The SGC is made up of three parts:

- super guarantee shortfall amounts (calculated on salary or wages, and including any choice liability)
- interest on the shortfall amount (10% per annum, calculated from the first day of the quarter to the date an SGC statement is lodged)
- an administration fee (\$20 per employee per quarter).

We send the shortfall and interest to your employee's super fund. We retain the administration fee to offset the costs involved in administering the super guarantee. You cannot claim a tax deduction for the SGC. If you need to lodge an SGC statement, you can obtain a copy from our website ato.gov.au/employersuper or by phoning **1300 720 092**.

For more information about the SGC, refer to Super – what employers need to know (NAT 71038).

What is a late payment offset?

If you have made a late contribution for an employee, you may be able to offset that payment against the amount of SGC for that employee for that period, providing you have done all of the following:

- made a late payment to your employee's super fund
- made the payment prior to the date your original SGC assessment was made
- made an election in the approved form, that the contribution be offset
- lodged the late payment offset election with the Commissioner of Taxation within four years after your original assessment date.

You can only use late contributions to offset the nominal interest and super guarantee shortfall components of the SGC. You will not be able to offset the administration fee, or any other interest or penalties.

To apply the late payment offset, you need to complete either the Superannuation guarantee charge statement – quarterly (paper form or electronic) or the Superannuation guarantee late payment offset form (NAT 14899), depending on your individual circumstances.

If you elect to apply the late payment offset:

- the late payment will not be tax deductible for income tax purposes
- you cannot revoke the election
- any late contribution you use to reduce the amount of your SGC cannot be used as a prepayment for current or future super obligations.

You should keep records of any late payments, because you may be required to provide them in support of your election. Alternatively, instead of using the late payment to reduce your SGC amount, you may be able to use it towards a future super guarantee obligation for an employee if the contribution is made not more than 12 months before the beginning of the quarter. If you choose this option, the contribution will be tax deductible, but you cannot also use it to claim an offset against the SGC. To obtain further information about the super guarantee late payment offset:

- visit our website at ato.gov.au/employersuper and select 'Paying super contributions' then select 'Missed and late payments'
- phone **13 10 20** between 8.00am and 6.00pm, Monday to Friday, to speak to a tax officer
- phone the publications ordering service on **1300 720 092**.

More information

To obtain a copy of our publications or for more information about super:

- visit our website at ato.gov.au
- subscribe to 'What's New' at ato.gov.au to receive regular updates
- phone **13 10 20** between 8.00am and 6.00pm, Monday to Friday, to speak to a tax officer
- phone us on **1300 720 092** for copies of our publications
- write to us at
Australian Taxation Office
PO Box 3578
ALBURY NSW 2640

If you are deaf or have a hearing or speech impairment, phone us through the National Relay Service (NRS) on the numbers listed below, and ask for the ATO number you need:

- TTY users, phone **13 36 77**. For ATO1800 free-call numbers, phone **1800 555 677**.
- Speak and Listen users, phone **1300 555 727**. For ATO1800 free-call numbers, phone **1800 555 727**.
- Internet relay users, connect to the NRS at relayservice.com.au

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information in this publication and it turns out to be incorrect or misleading, and you fail to comply with the law as a result, we must still apply the law correctly. However, we will take the fact that you followed our information into account when deciding what action, if any, we should take.

If you make an honest mistake in trying to follow our information in this publication and you fail to comply with the law as a result, we will take the reason for the mistake into account in deciding what action to take.

If you feel that this publication does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for more recent information on our website at ato.gov.au or contact us.

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