



## Directors' Superannuation

Salary and wages paid to an employed director are subject to the same superannuation guarantee law as any other employee.

Directors fees, paid to a company director, are considered to be ordinary time earnings and therefore superannuation applies.

However, payment for the performance of duties as a member of an executive body, such as a body corporate, may be deemed salary or wages which may not be "ordinary time earnings", and therefore no super applies to these payments.

If a director is engaged as a contractor principally for their labour then the ATO would deem them an employee for superannuation purposes. A director may legitimately be engaged as a contractor and yet super may still be payable.

Dividends paid to a director of a company are not subject to super.

According to the ATO Superannuation Guarantee Eligibility Tool, a contracted director who invoices the business directly, and who receives director fees is eligible for super. However, a director invoicing through a company is not eligible for super to be paid by the business, because the director is deemed to be an employee of the entity invoicing the business.

This tool contradicts other advice and interpretations that would state if a company director receives remuneration for services as a company director then it would be considered payment as an employee and super would be a requirement.

Note that an employed director must pay their own superannuation guarantee as they would for any other employee. The rules are not different for a director of their own company - contrary to the opinion of many business owners, directors do not get to make up their own rules about the payment of their own superannuation.

## ATO Lodgement Dates

These dates are from the ATO website and do not take into account possible extensions.

You remain responsible for ensuring that the necessary information is with us in time.

### **BAS/IAS Monthly Lodgements**

Final dates for lodgements and payments:

August Activity Statement:  
21 September, 2017

September Activity Statement:  
21 October, 2017

### **BAS Quarterly Lodgements**

Final dates for lodgements and payments:

**1st Quarter of FY 2018:**  
**September Quarter 2017 (incl. PAYGI)**  
28 October, 2017

When a due date falls on a Saturday, Sunday or Public Holiday\*, you can lodge or pay on the next business day.

\*A day that is a public holiday for the whole of any state or territory in Australia.

Due date for super guarantee contributions:

**1st Quarter of FY 2018:**  
July to September 2017 – contributions must be **in the fund** by 28 October, 2017.

The super guarantee charge is not a tax deduction if not paid by these dates.

Refer to the ATO for details regarding any SGC charges applicable if not paid by due date.

**Taxable Payments Annual Report (TPAR)** is due by 28 August each year

## Salary Sacrifice

If a director is employed, then they can enter into an effective salary sacrifice arrangement, (see below for more detail on sacrificing to superannuation). However, if a director is paid, for example, an annual fee which is not defined as wages or salary, then it may not be sacrificed into superannuation.

A company may have an agreement with a director to pay a half-yearly and/or annual bonus. Often this will be sacrificed to superannuation. The same rules apply as for any other employee, that there should be an agreement in place ahead of time that relates to future earnings. The agreement may state something in general terms, for example, "agreed director's fee or end of year salary bonus" even if the exact amount is not determined until the end of the year.



## New Employee Guide

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### Starting Employment

#### Employee Details required

- Name, address and mobile number
- Next of kin details for emergencies
- Provide bank details for electronic wage
- Authority to email payslips to employee
- MyGov registration (when required for STP)
- Award/Agreement
- Employee pay rate, employment basis, classification and any allowances
- Storage of the Award must be easily accessible for employees

#### Tax File Declaration

The key Tax File Declaration areas to focus on include:

- Tax File Number
  - Claiming tax free threshold
  - Claiming tax off set
- Required to pay HELP/HECS
- Is the employee a foreign resident – check visa (type of visa and allowed hours)
- Is the employee a Working Holiday Maker – Visa 462 and 417

Section A of the Tax File Declaration is to be completed by the employee, and Section B is to be completed by the employer.

## **Super Choice Form**

The required details for the Super Choice Form are:

- Employee details including Tax File Number
- Employer default fund
- Employee's choice of fund
- Employee's fund name and membership number
- Employee's fund USI
- Employee with a self-managed super fund requires an ESA id

It is important to note that the employee's details used in the super fund must be the same in payroll.

## **Fair Work Information Statement**

The Fair Work Information Statement outlines the 10 NES Standards:

1. Maximum weekly hours
2. Requests for flexible working arrangements
3. Parental leave and related entitlements
4. Annual leave
5. Personal carers leave
6. Compassionate leave
7. Community service leave
8. Long service leave
9. Public holidays
10. Notice of termination and redundancy

Casual employees only receive NES entitlements related to:

- Unpaid carer's leave
- Unpaid compassionate leave
- Community service leave
- Fair Work information statement

## **Employment**

### **Employer Obligations**

The employer must:

- Register with the ATO as an employer
- Withhold appropriate PAYG from employees pay
- Choose a 'My Super Default' superannuation fund for the business
- Forms to be supplied to employee:
  - TFN Declaration
  - SGC Standard Choice Form
  - Fair Work Information Statement (supplied to all employees)
- Taxes, superannuation and other deductions must be forwarded by the stipulated dates to the appropriate agency
- Record keeping – FWO is 7 years; ATO is 5 years

## Employment Workplace Policy

The workplace policy is designed to provide payroll staff direction of the business rules and regulations for staff and guidance in staff management and operations. Additionally, this policy is to enable staff to promptly find answers to payroll issues regarding pay, leave, employment entitlements and conditions for the workplace.

The policy includes:

- Employee roles and responsibilities
- Employee contracts and Fair Work NES standards
- Payroll administrator tasks
- Assigned HR Expert for the business
- Payroll business guidelines
- New staff guideline
- Payroll process
- Human Resource person/intermediary issues and notes (if applicable)

## Payroll Record Keeping

Employers are required to keep time and wages records for 7 years.

The records kept must be: legible, readily accessible to a Fair Work Inspector and in English.

The records cannot be: changed, unless the change is to correct an error or false or misleading.

## Record Keeping Documents:

- Job Classifications – Awards and Agreements – Pay and entitlements
- Superannuation
- Employer tax obligations
  - PAYG
  - Payroll Tax – Record keeping
- Workplace health and safety – Training
- Discrimination
- Trade union membership

## Workers Compensation

Workers' Compensation/Workcover is an insurance paid by employers to cover:

- Employees
- Directors (working and non-working)
- Subcontractors, if deemed to be a worker.

The rules and regulations of Workers Compensation are different in each state.

Disclaimer: All or any advice contained in this newsletter is of a general nature only and may not apply to your individual business circumstances. For specific advice relating to your specific situation, please contact your accountant or contact me for further discussion.

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