



Industrial Relations Alert

Superannuation Changes from 1 July 2008

From 1 July 2008, employers must contribute the 9% superannuation guarantee based on a standard definition of *ordinary time earnings*. Any employer who previously contributed superannuation on an earnings base that is less than the standard definition must begin to contribute in line with the new definition.

An existing or new award, workplace agreement or employment contract that requires an employer to contribute a lesser amount of superannuation has no effect from 1 July 2008 and the employer must contribute in line with the new, more generous definition of ordinary time earnings.

If an award, workplace agreement or employment contract requires an employer to contribute a greater amount of superannuation, that document will still be binding.

What are ordinary time earnings?

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

- over-award payments
- commissions
- allowances, and
- paid leave

Ordinary time earnings does not include overtime.

What is an earnings base?

Most employees have ordinary time earnings as their earnings base; however some have another earnings base that may be contained in:

- an industrial award
- an existing agreement they have with their employer
- a fund's trust deed, or
- a law of the Commonwealth, States or Territories.

If these earnings bases are valid, you can use them until 30 June 2008 but you will have to use ordinary time earnings from 1 July 2008.

What do you need to do?

1. Check to see if you're using an earnings base other than ordinary time earnings to calculate your super contributions. If the amount you pay is less than the minimum 9%, you will have to increase this amount to meet the minimum to avoid the super guarantee charge.
2. Think about building the increased super guarantee contributions into your workplace bargaining processes and payroll system now to be ready for 1 July 2008.
3. Start using ordinary time earnings for all your employees from 1 July 2008.

Checklist for salary or wages and ordinary time earnings

Payment Type	Salary or Wages	Ordinary Time Earnings
Expense allowance that is paid with the expectation that it will be fully expended in producing income, for example, car allowance paid to real estate agents	No	No
Allowances paid (other than a reimbursement of expenses or expense allowance)	Yes	Yes
Reimbursement of expenses (e.g. travel costs)	No	No
Bonuses that don't relate to specific performance criteria (e.g. Christmas bonuses)	Yes	No
Other bonuses, commissions, over-award payments and shift loadings	Yes	Yes
Overtime	Yes	No
Casual Loading	Yes	Yes
Benefits subject to fringe benefits tax	No	No
Workers Compensation (incl top-up payments) where no work is performed	No	No
Workers Compensation (incl top-up payments) paid by the employer, where work is performed	Yes	Yes
Top-up payments (e.g. when serving on jury duty or with reserve forces etc)	Yes	No
Payments when on maternity or paternity leave	Yes	No
Pay for annual holiday leave taken	Yes	Yes
Government (wage) subsidies (e.g. Wage Subsidy Scheme allowance)	Yes	Yes
Annual Leave Loading	Yes	No
Pay for sick leave taken	Yes	Yes
Pay for long service leave taken	Yes	Yes
Accrued annual leave, long service leave and sick leave paid as a lump sum on termination	Yes	No
Payments in lieu of notice	Yes	No
Redundancy payments	Yes	No
Other payments paid by an employer on termination of employment	Yes	No
Director's fees	Yes	Yes
Payments for performance in entertainment, sport, promotions etc	Yes	Yes
Payments to a contractor who is an employee under the Superannuation Guarantee Administration Act 1992 (labour portion only)	Yes	Yes
Dividends	No	No
Partnership and trust distributions	No	No
Payments for domestic or private work under 30 hours per week	No	No

Why the Change?

Some employers currently pay superannuation on an earnings base that existed before the super guarantee was introduced. This means an employee may be paid lower super contribution (as a proportion of total remuneration) when compared with another employee in similar circumstances.

For a more detailed explanation of ordinary time earnings, refer to superannuation guarantee ruling 94/4. You will find this on the ATO website by searching 'SGR 94/4' or phoning 131020.

This information has been provided by ACSEA as general guidance and should not be treated as advice. Please contact ACSEA for further information.