

Date prepared: 1 April 2008

This Employer Update draws your attention to the two issues:

1. Superannuation Guarantee changes;
2. Minimum insurance requirements for default funds.

Superannuation Guarantee rules are changing

From 1 July 2008, employers will need to use ordinary time earnings as defined in the superannuation guarantee law, to calculate super guarantee contributions for their employees. This ensures all employees are treated the same for super guarantee purposes.

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. The table on the following pages defines the types of payments that constitute ordinary times earnings.

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.

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 contributions (as a proportion of total remuneration) when compared with another employee in similar circumstances.

The new law standardises the earnings base to ordinary time earnings for all employees.

What do I need to do?

Review arrangements to check the salary definition is used for SG contributions. Remember, it's your responsibility to ensure that SG is paid correctly so as to avoid any charges or penalties.

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.

For further assistance please contact Certainty Financial on (03) 9890 0222

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Warning: This advice has been prepared without taking account of your objectives, financial situation or needs. Because of that, you should, before acting on the advice, consider the appropriateness of the advice, having regard to your objectives, financial situation and needs. Where the advice relates to the acquisition of a particular financial product, you should obtain a Product Disclosure Statement relating to that product and consider it before making any decision about whether to acquire the product.

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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	Yes	Yes
Commission	Yes	Yes
Over-award payments	Yes	Yes
Shift loading	Yes	Yes
Overtime	Yes	No
Casual loading	Yes	Yes
Benefits subject to fringe benefits tax	No	No
Workers compensation payments, including top-up payments where no work is performed	No	No
Workers compensation payments, including 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, or provision of services relating to entertainment, sport, promotions, films, discs, tapes, TV, or radio	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 entering into a restraint of trade agreement	No	No
Payments for domestic or private work under 30 hours per week	No	No

Source: AMP

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Super Choice and default funds

The introduction of super choice included requirements for default funds. One of these requirements was that the default fund must provide a minimum level of insurance.

As a transitional measure, where an employer contributed to a default superannuation fund prior to 1 July 2005 that does not satisfy the minimum insurance requirement, the employer could continue to contribute to that fund on behalf of existing employees and new employees hired after 1 July 2005. This transitional measure ends on 1 July 2008.

From 1 July 2008, the default fund must either have met the minimum insurance requirements or the employer needs to contribute to a fund which satisfies the requirements.

In certain circumstances, the minimum insurance requirement will not apply as cover is not available due to the employee's occupation, health, hours worked or another circumstance determined by the insurer. In this situation, the employer is not required to contribute to another fund.

Those employers impacted by the ending of the transitional period should review their superannuation arrangements to ensure that they have an appropriate default fund in place prior to 1 July 2008.

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