

## ATO – Payday Super

### ***Consultation Paper - October 2023***

This response is by Dr Geoffrey Lewis, Managing Director of Custom-Made Software Pty Ltd. Our payroll package, Lewis PAY-PACK, has been used by Australian businesses since 1984, making it the longest established payroll software for small and medium sized businesses.

#### **Discussion on Page 11 about which model**

I prefer a model where the employer must pay the super by a specified date, rather than on the actual day that employees are paid.

That specified date could be a set number of days after the payment has been made.

It may also be convenient to have a separate rule for very small employers. This might be to pay the super by the end of the month in which payment is made. This would ease the administrative burden on these employers.

Any rule should be about the date the employer pays the superannuation clearing house, rather than when the superannuation fund receives payment. The employer has no control on how long it takes the superannuation clearing house to pay the superannuation fund.

#### **Corrections and Errors as discussed on page 19**

Flexibility must be given to the employer when delays are caused in these cases:

- A new employee fails to give his/her superannuation fund details.
- Often it happens that an employee changes superannuation fund, but fails to notify the employer. In practice, the employer only learns about this when the superannuation clearing house returns the money. The employer must then find out details of the new fund, and then make the payments. In the present system, the delays of discovering this error are usually between one and two months. The discovery time should be reduced with Payday Super, but it will still happen for maybe one or two pay cycles.

#### **Employee resigns after being paid in advance**

Another situation occasionally happens for employees paid part-way through the pay period. This is most likely to occur for employees paid monthly on or about the 15<sup>th</sup> day of the month. It could also happen for fortnightly employees paid at the end of the first week.

Sometimes, an employee resigns after the payday. The employer will do a termination pay, and subtract the amount of pay already paid in advance. This will usually be offset by lump sums for accrued leave, or occasionally the employee will refund any remaining overpayment to the employer.

The employer correctly pays the super on or shortly after the payday. How does the employer get a refund of the superannuation already paid? For example, an employee has a gross payment of \$10,000 for the month. It was paid to the employee on the 15<sup>th</sup> day. The super was paid on or about the payday. Afterwards on the 20<sup>th</sup> day, the employee resigns, and agrees to refund the amount prepaid, say \$3000. How does the employer get the refund of the SGC on the \$3000?

## **Maximum contribution base calculations**

For employees paid a regular annual salary, calculation on the payday model will be fine.

The problem happens for employees who receive a large irregular amount. The two major cases are:

- A bonus. Typically, this is once a year.
- A person paid a sales commission. Typically, this is paid monthly, and the amount may vary considerably from month to month.

If the annual maximum base is divided by the number of pay periods, that will be fine for people paid equal amounts as salary, but will significantly reduce the amount of SGC paid to employees receiving large bonuses or commissions.

For example, the current quarterly maximum in year ending 30 June 2024 is \$62270. This is equivalent to \$4790 per week, or \$9580 per fortnight, or \$20756 per month. If an employee receives a large one-off payment of say \$50,000, the amount of SGC payable would be reduced sharply if the pro-rata maximum contribution was used.

I favour retaining the current system of using the quarterly maximum.

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