

Title: Superannuation and Ordinary Time Earnings

Background

Circular C4/06 provided information on the implementation of ordinary time earnings calculation for superannuation as of 1 July 2006. Circular C4/06 noted that under the Superannuation Laws Amendment (2004 Measures No 2) Act 2004 a standard calculation method for employer contributions was mandatory for all employees from 1 July 2008. From that date the minimum employer contribution calculation was determined by multiplying the minimum required employer contribution rate (currently 9%) by the employee's Ordinary Time Earnings. The Memorandum of Agreement, *Public Sector Wage Bargaining in Queensland 2005-2007* introduced the benefit to the Queensland Public Sector employees two years early (1 July 2006).

Superannuation Guarantee Ruling

The Australian Tax Office (ATO) has issued a Superannuation Guarantee Ruling SGR 2009/2 and an addendum SGR 2009/2A1 to take effect from 1 July 2009. This ruling explains the meaning of ordinary time earnings (OTE) which is relevant for the purpose of calculating the minimum level of superannuation support required for individual employees. These rulings replace Superannuation Rulings SGR 94/4 and SGR 94/5

Changes in OTE

ATO Ruling SGR 2009/2 and addendum SGR 2009/2A1 has replaced the previous interpretation of the following:

Payment in Lieu of Notice

If an employer terminates an employee immediately and pays the equivalent of the notice period (in lieu of notice) then this amount is considered OTE. Although the employee did not perform duties to receive payment in lieu of notice the payment was made in respect of ordinary hours of work the employee would have performed except for the immediate termination of employment.

Bonuses

Additional earnings received as a reward for good performance and other like bonus payments are OTE in most cases. If a bonus is at least partly referable to results achieved in ordinary hours of work then it is OTE.

What is Ordinary Time Earnings

OTE can be defined as before tax earnings that are the result of an employee's ordinary hours of work. This does not include overtime or leave loading. However, it does include shift allowance, weekend penalties, higher duties allowance and locality allowances in the calculation of employer

superannuation contributions. The ATO has provided a checklist¹ to determine salary or wages and OTE payments. This checklist can be found at the end of this circular.

The use of ordinary time earnings as the basis of minimum superannuation contributions calculations standardises the contributions earnings base and superannuation guarantee calculation for all Australian employees.

What Does This Mean to Employees?

All eligible employees will continue to have their current employer contribution tested against 9% of their OTE salary. Where the contribution based on OTE is higher than the standard employer contribution, the higher amount will be paid.

QSuper Defined Benefit Account

QSuper's salary definition will continue to be applied to the calculation of benefits for employees who have a Defined Benefit account. A minimum benefit test will apply on exit (eg Retirement, resignation, etc) to ensure that the employer component equals at least 9% of the OTE from 1 July 2006.

What is the Impact on Salary Sacrifice?

As OTE relates to the employer contribution there is no effect on employee salary sacrifice arrangements.

Further Information

Employees seeking further information should consult their payslips or contact their agency's payroll services.

Payment Type	OTE	Salary or Wages
Allowances paid (other than a reimbursement of expenses)	Yes	Yes
Reimbursement of expenses (eg travel costs)	No	No
Performance Bonus	Yes	Yes
Bonus labelled as ex-gratia but in respect of ordinary hours of work	Yes	Yes
Christmas bonus	Yes	Yes
Bonus in respect of overtime only	No	Yes
Commission	Yes	Yes
Over-award payments	Yes	Yes
Shift loading	Yes	Yes
Overtime	No	Yes
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	Yes	Yes

up payments paid by employer, where work is performed		
Top up payments (eg when serving on jury duty or with reserve forces etc)	No	Yes
Payments when on maternity or paternity leave	No*	Yes
Pay for annual holiday leave taken	Yes	Yes
Government (wage) subsidies (eg Newstart allowance)	Yes	Yes
Annual leave loading	No	Yes
Pay for sick leave taken	Yes	Yes
Pay for long service leave taken	Yes	Yes
Accrued annual leave, long service leave and sick leave as a lump sum on termination	No	Yes
Payments in lieu of notice	Yes	Yes
Redundancy payments	No	Yes
Other payment made by an employer on termination of employment	No	Yes
Directors 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 SGAA (labour portion only)	Yes	Yes
Dividends	No	No
Partnership and trust distributions	No	No
Payments for entering into restraint of trade agreement	No	No
Payments for domestic or private work under 30 hours per week.	No	No

* QSuper recognises payments for maternity or paternity leave as part of the QSuper definition of salary.

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The Division of Public Sector Industrial and Employee Relations provides policy advice and consultancy and training services to Queensland Government departments and agencies. It is part of the Department of Justice and Attorney-General. Enquiries about this circular should be directed to Noel Cavanough on telephone 07 322 52350.

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