

Benefits of the superannuation guarantee amnesty

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Parliament has passed the long-awaited Superannuation Guarantee Amnesty legislation. The superannuation guarantee amnesty aims to provide employers with a one-off amnesty encouraging self-correction of historical non-compliance with superannuation guarantee payments to their employees.

What are the consequences for late payment of superannuation guarantee?

Employers who fail to meet their superannuation guarantee obligations are subject to a charge (“superannuation guarantee charge”) equal to their superannuation guarantee shortfall. This is calculated by adding together the following amounts for each quarter:

1. The total of the employer’s individual superannuation guarantee shortfalls (the amount of contributions under the minimum percentage for an employee);
2. The employer’s nominal interest component (the amount of interest on the employer’s total superannuation guarantee shortfalls for the quarter calculated from the beginning of the quarter to the date the charge is payable); and
3. The employer’s administration component (\$20 for each employee where the employer has a superannuation guarantee shortfall)

Penalties can also be imposed for failing or refusing to provide a statement or information required, which can be up to 200 per cent of the amount of the superannuation guarantee charge calculated above.

General interest charges can be imposed where the superannuation guarantee charge or penalties imposed are not paid by the due date.

What are the benefits of self-reporting?

An employer that qualifies for the amnesty in relation to their superannuation guarantee for a quarter:

- does not have to pay the administrative component (item 3 above);
- does not incur penalties in respect of amounts of the superannuation guarantee shortfall that qualify under the amnesty; and
- can obtain a tax deduction for payments of superannuation guarantee charge or contributions made to offset the superannuation guarantee charge.

Higher minimum penalties will be imposed on employers who fail to come forward during the amnesty period in relation to historical superannuation guarantee shortfalls, in order to incentivise employers during this time.

How to qualify for the amnesty as an employer:

To qualify for the amnesty, an employer must disclose to the Commissioner, in an approved form, any information related to their superannuation guarantee non-compliance shortfalls for a quarter that ended at least 28 days before the start of the amnesty period. That is, for quarters ended 31 March 2018 or earlier.

The amnesty period is the period starting on the 24th May 2018 and ending six months after the date of Royal Assent (*the six months is anticipated to end late August / early September 2020*,

depending on the date of Royal Assent).

The employer must not have already been examined by the Commissioner in relation to the superannuation guarantee amounts in the relevant quarter. This ensures the amnesty is only available to employers that come forward about their non-compliance and does not provide protection for non-compliance previously identified.

An employer that has previously reported a superannuation guarantee shortfall cannot benefit from the amnesty in relation to that same shortfall.

Failure to make payments, or enter into and comply with arrangements to pay, will mean the employer ceases to qualify for the amnesty.

On costs, such as Payroll Tax and Workcover, that apply to superannuation contributions should also be considered.

[Explanatory Memo](#)

[First Reading](#)

If you have any queries, or would like to discuss the above further, please contact your [Fordham Partner](#).

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