

Super guarantee compliance: time to take action

The government is getting tough on employers who fail to make compulsory superannuation guarantee (SG) contributions. A host of measures are being implemented, ranging from improved reporting systems through to proposed employer penalties of up to 12 months' imprisonment. Here, we examine two particular initiatives that will require some businesses to take action in the next few months.

New reporting standard

On 1 July 2018, Single Touch Payroll (STP) reporting became mandatory for employers with 20 or more employees. Importantly for small businesses, the government wants to extend STP reporting to *all* employers from 1 July 2019. It says that mandatory STP reporting for all businesses, regardless of their size, will improve the ATO's ability to monitor compliance and take action when required.

Although the legislation to implement this measure is still before Parliament, we should assume the changes will proceed and plan early. Businesses should ask their current payroll solution provider what software updates (or new products) are required in order to become STP-compliant.

Small businesses without any current payroll software should not panic. The ATO says that over 30 software providers propose to release a low-cost STP solution (costing less than \$10 per month) from early 2019, which may include simple solutions such as mobile apps or portals.

Amnesty for underpayments

The government is proposing a 12-month "amnesty" to allow employers to voluntarily disclose and correct any historical underpayments of SG contributions for any period up to 31 March 2018 without incurring penalties or the usual administration fee. This is provided the ATO has not already commenced (or given notice of) a compliance audit of that employer. Additionally, employers will be entitled to claim deductions for the catch-up payments they make under the amnesty. Employers will, however, still need to pay the usual interest charges.

While these are welcome incentives for employers to make a disclosure, there is one problem: legislation to enable the amnesty is still before Parliament, with the amnesty slated to apply from 24 May 2018 to 23 May 2019. There is no guarantee the legislation will pass, so what does this mean for employers wishing to take advantage of the amnesty?

If an employer discloses now and the amnesty legislation is *not* passed, the ATO will be required to administer the usual laws. This means catch-up payments will be non-deductible and penalties and administration fees will apply. However, the ATO may view the employer's prompt disclosure favourably when deciding whether to use its discretion to reduce the penalties.

On the other hand, taking a "wait and see" approach carries considerable risks. The ATO says "employers who do not disclose their SG shortfalls during the amnesty period may face harsher penalties if they are audited in the future". There is also a risk the ATO could commence an audit while the employer waits, particularly if an employee contacts the ATO about outstanding SG contributions owed to them. This would disqualify the employer from the amnesty (if it became law).

Ensure your business is SG-compliant

Now is an important time for businesses to get their SG affairs in order. Talk to us today to ensure your small business is ready for STP reporting. For any employer with outstanding underpayments of SG contributions, we can assist with the careful process of making a voluntary disclosure to the ATO.
