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BUSINESS BULLETIN

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SUPER FOR CONTRACTORS: ARE YOU GETTING IT RIGHT?

As a small business owner, it's common to engage independent contractors from time to time — maybe it's a graphic designer, a tradie, or someone to help with admin support. But did you know that in some cases, you might still need to pay superannuation guarantee (SG) for them?

Even if the contractor has an ABN and sends you invoices, your business could still be legally required to pay super for the contractor.

So when does super apply?

Under superannuation law, if a contractor is paid mainly for their labour, and they personally do the work, they're often considered an employee for super purposes. This means you may need to:

- make super contributions for them quarterly,
- offer them a choice of fund, and
- follow the same rules as you would for an employee.

It's also important to know that paying them extra and asking them to "sort out their own super" isn't an option. Your business has to make the payment directly to their superannuation fund to meet your legal obligations.

KEY DATES

21 SEPTEMBER

August monthly Activity Statements -
due for lodgement and payment

21 OCTOBER

September monthly Activity Statements
- due for lodgement and payment

28 OCTOBER

July - September Superannuation
Guarantee contributions (received by
Super Fund)

28 OCTOBER

Quarterly (July-September) Business
Activity Statements due for lodgement
and payment

31 OCTOBER

Individual 2024/2025 income tax returns
due for lodgement if not using a tax
agent

There are a few key conditions to keep in mind. Super will usually apply if:

- the contract is mainly for the contractor's personal labour (rather than equipment or materials),
- the contractor is paid based on time worked (like an hourly rate), and
- they do the work themselves and can't delegate it to someone else.

For example, if you hire a freelance admin assistant to help out 10 hours a week and pay them by the hour, superannuation would likely apply. However, if you engage a contractor to build your website with a fixed quote and they deliver the finished result – that may be a different story.



It also matters who the contract is with. If it's with a company or a trust – even if one person is doing the work – you don't have to pay SG. However, if you're contracting with the individual directly, and the work is mainly for their effort and time, SG could apply.

What's the risk if I get it wrong?

If you don't pay super for contractors in circumstances where it would apply, then Super Guarantee Charge (SGC) would apply, as would interest and penalties. In the most severe cases, liability can fall back to the company directors.

Not sure if SG applies to your contractor?

You're not alone — the rules are tricky! That's where your bookkeeper can help. They can:

- help you identify whether super is likely to apply,
- assist with setting up the right processes in your accounting software, and
- point you in the right direction if legal or tax advice is needed.

DIRECTOR PENALTY NOTICES: WHAT EVERY COMPANY DIRECTOR NEEDS TO KNOW

If you're a director of a company, you carry important responsibilities—and one of the most serious consequences of not meeting them is receiving a Director Penalty Notice (DPN) from the ATO.

A DPN is a formal notice that the ATO can issue to make directors personally liable for certain unpaid company tax obligations. This includes:

- Pay As You Go (PAYG) withholding
- Superannuation Guarantee Charge (SGC)
- Goods and Services Tax (GST)

Why the ATO Issues a DPN

When a company fails to meet its tax obligations, like not paying PAYG or superannuation for employees, the ATO can take steps to recover the debt. A DPN allows the ATO to pursue directors personally for these unpaid amounts. This means even if the company is wound up or ceases trading, the director can still be held liable.

There are two types of DPNs:

1. Non-Lockdown DPN (21-day notice)

If the company has lodged its BAS and superannuation statements on time, but hasn't paid the amounts due, the ATO may issue a non-lockdown DPN. Directors then have 21 days to take action such as:

- Paying the debt in full,
- Engage with the ATO and negotiate a payment plan
- Placing the company into administration or liquidation
- Appointing a small business restructuring practitioner

If no action is taken within 21 days, the director becomes personally liable.

2. Lockdown DPN

If the company fails to lodge its BAS or superannuation statements within required timeframes, a lockdown DPN can be issued. In these cases, personal liability is automatic and there is no option to avoid liability through administration or liquidation. The only way to resolve the matter is to pay the debt in full.

Why Awareness Matters Now More Than Ever

The ATO has ramped up its **debt collection activity**, particularly targeting long-standing debts, including those that arose during or prior to the COVID period. Many businesses are now receiving DPNs for unpaid amounts that have been sitting dormant for years.

What to Do If You Receive a DPN

Ignoring a DPN is not an option. Directors must act quickly to understand their options and seek advice. It's strongly recommended to:

- Speak with your bookkeeper or accountant immediately.
- Engage a tax or insolvency professional to understand the risks and next steps.
- Ensure all future lodgments are made on time even if you can't pay immediately.

How to Stay Protected

- Lodge BAS and superannuation returns on time, even if the company can't pay in full.
- Regularly check ATO accounts and correspondence and make sure your postal address is current.
- Keep clear financial records and engage with the ATO early if cash flow issues arise.

owners like you, sending fake emails and texts designed to steal your personal or business information. If they get hold of your details, they can commit fraud in your name, putting your finances, operations, and reputation at risk.



Here's how to stay safe:

- **Stop:** Never share your MyID or ATO online services login. Only share sensitive information, such as your TFN where it is absolutely essential, for eg a bank requests your business TFN.
- **Check:** Could it be fake? Don't click on links or QR codes in unexpected messages—even if it looks like it's from the ATO.
- **Protect:** If something doesn't feel right or you spot unusual activity, take action fast.

Remember: The ATO will **never** send a message asking you to log in or provide personal information via a link. Educate your team and stay vigilant.

Need help? Your bookkeeper can help you spot and report suspicious activity.

SCAM ALERT - ATO IMPERSONATION

ATO impersonation scam reports have skyrocketed, up over 300% compared to last year. Scammers are targeting busy business

