

**AUGUST 2015**

# Client eBrief



## ATO Lodgement Dates

### ATO Lodgement Deferral - You still have to pay on time

#### Issue

When a lodgment deferral for an activity statement is granted by the ATO, the payment is not automatically deferred.

How does the Business Owner/BAS Agent know what to pay until they complete the BAS?

#### Response

A deferral of lodgment extends the due date for lodgment without penalty.

The Commissioner can defer the time for lodgment of any approved form pursuant to Section 388-55 of Schedule 1 to the Taxation Administration Act 1953 (TAA1953).

The ATO exercises the discretion to grant lodgment deferrals by applying PS LA 2011/15 Lodgment obligations, due dates and deferrals.

These dates are from the ATO website and do not take into account possible extensions.

You remain responsible for ensuring that the necessary information is with us in time.

BAS/IAS Monthly Lodgement – July Activity Statement: 21<sup>st</sup> August, 2015 final date for lodgement and payment.

BAS/IAS Monthly Lodgement – August Activity Statement: 21<sup>st</sup> September, 2015 final date for lodgement and payment.

BAS/IAS Monthly Lodgement – September Activity Statement: 21<sup>st</sup> October, 2015 final date for lodgement and payment.

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**4th Quarter of FY 2015: BAS Lodgement – June Quarter 2015**

It would be reasonable for the ATO to defer lodgment of an obligation in circumstances such as the serious illness of the agent or client, impeded access to records, or where a small number of returns will not be lodged by the due date despite a concerted effort by the agent.

- Separate legislative provisions provide the Commissioner with the discretion to defer the due date for payment of a tax liability.
- Payment deferrals are primarily based on the client's ability to pay by the due date.

The relevant provision under which the Commissioner may defer time for payment is Section 255-10 of Schedule 1 to the TAA1953.

A deferral of payment extends the date for payment without any penalties accruing between the original due date to the deferred due date. We are guided by PS LA 2011/14 General debt collection powers and principles when considering requests for additional time to pay.

Payment will be deferred where the debtor can demonstrate that are circumstances beyond their control affecting their ability to pay on time, and payment in full can be made at a later date. A list of circumstances which is not exhaustive are outlined; such as natural disasters, legal impediment, and serious illness.

Due the variety of reasons that can lead to a lodgment deferral being requested, and the application of payment deferrals under separate legislative provisions, a payment deferral cannot be automatically applied, nor is it always appropriate to do so.

The circumstances allowing lodgment deferral are not the same for payment deferral. For the ATO there is a risk to timely collection of revenue in automatically granting payment deferrals.

Clients/agents are encouraged to make an estimate of the liability, this information can be sourced from BAS lodged in previous periods.

For further information see the ATOs Services and Support Overview for Agents, [click here](#) for your copy.

(including PAYGI) 28th July, 2015  
final date for lodgement & payment

**1st Quarter of FY 2016: BAS Lodgement – September Quarter 2015 (including PAYGI) 28th October, 2015** final date for lodgement & payment

When a due date falls on a Saturday, Sunday or Public Holiday, you can lodge or pay on the next business day.

A public holiday is a day that is a public holiday for the whole of any state or territory in Australia

#### **END OF FINANCIAL YEAR - Additional Lodgements**

Payment Summaries to be lodged with the ATO by the 14th August, 2015

Taxable Payments Annual Report (TPAR) to be lodged with the ATO by the 28th August, 2015

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Due date for super guarantee contributions, for **4th Quarter of FY 2015**, April to June 2015 - contributions to be made to the fund by 28th July, 2015.

Due date for super guarantee contributions, for **1st Quarter of FY 2016**, July to September 2015 - contributions to be made to the fund by 28th October, 2015.

The super guarantee charge is not a tax deduction if not paid by these dates.

Refer to the ATO for details regarding any SGC charges applicable if not paid by due date.



## Business Information - Superannuation Guarantee

### Superannuation Employer Obligations

- Offer your employees a '**choice of fund**'
  - Identify new employee is eligible
  - Provide a standard choice form
  - Nominate a default fund (must be a MySuper product)
  - Act on employee's choice of fund
- Pay superannuation guarantee before due date
- As of 1 July 2014, the superannuation guarantee rate is 9.5%
- You must keep the following Superannuation records for five years
  - How you calculate any reportable employer super contributions
  - How you calculate each of your employee's salary or wages and OTE
  - Copies of relevant salary sacrifice agreements you entered into with your employees
  - Copies of relevant industrial agreements with your employees
  - Evidence that you offered your eligible employees a choice of Super Fund

### Employees Who are not Eligible for SGC

- Employees paid less than \$450 in a month (less than \$350 for some hospitality awards)
- Employees under 18 years working 30 hours or less per week
- Non-resident employees for work done outside of Australia
- Foreign executives who hold certain visas or entry permits
- Employees paid for domestic or private work 30 hours or less per week
- Employees who receive payments under [Remote Jobs and Communities Program RJCP](#) (Formerly CDEP)
- Members of the Army, Navy or Airforce reserves
- Employees temporarily working in Australia, covered by bilateral super agreement.
- [Super Guarantee Eligibility Tool](#)

### Thresholds

If an employee earns more than a certain limit, the employer is not obliged to pay SGC 9.5% on earnings above the threshold.

- Maximum contribution base 2015 year \$49,430 (approx. \$192,160 pa)
- Maximum contribution base 2016 year \$50,810 (approx. \$203,240 pa)

## Concessional Contribution Caps

The concessional contributions cap refers to the amount of contributions that can be made to an employee's super fund before they pay extra tax. This is the employee's responsibility to keep track of, however, employers often get asked about these caps.

- Under 49 contributions limit \$30,000
- Over 49 contributions limit \$35,000

## Employee Obligations

- Provide superannuation fund details or choose the default fund (a MySuper Product)
- Provide employer with electronic service address, ABN and bank details if nominated fund is a Self-managed super fund (SMSF).

## Superannuation for Contractors

The ATO states "if a contractor (sole trader) is hired principally for labour being more than half of the contract then SGC should be considered". The SGC ruling looks at key factors of CONTROL, ACHIEVING A RESULT and USE of TOOLS and EQUIPMENT.

A person's labour whether physical, mental or artistic effort may be considered for SGC if the person:

- Paid solely on their personal labour and skills
- Perform the work themselves and does not delegate
- Paid by the hours worked, rather than achieve a result

The words 'achieve a result' is the distinction to pay SGC or not. A contractor must outline in a quote or timesheet/invoice that their work will achieve a result and not simply being paid for hours worked.

- For example, a contractor (sole trader) who works for a builder for a 3-6 month project and works every day for the builder, supplies his own tools but no materials would be subject to SGC.
- Alternatively, a contractor (sole trader) who quotes the job, installs using his own materials and tools to complete the job (achieve a result) is working independently and not subject to SGC.
- [ATO Super for Contractors](#)

## Superannuation Payment Due Dates

1	1 July - 30 September	28 October	28 November
2	1 October - 31 December	28 January	28 February
3	1 January - 31 March	28 April	28 May
4	1 April - 30 June	28 July	28 August

## Failure to pay Superannuation on Time

An employer is required to lodge a SGC Charge Statement if superannuation payment is not paid by due date, even if payment was made late.

### SGC Charge Statement includes:

- SGC shortfall (Includes ALL Wages)
- Interest 10% per day till paid
- Administrator Fee \$20 per employee per quarter
- Late Payment Offset (if applicable)

A director of a company that fails to meet a SGC liability by the due date automatically becomes personally liable for a penalty equal to the unpaid amount.

[ATO - SGC Directors Liability](#)

## SuperStream Information for Employers

SuperStream is a compulsory system of submitting Superannuation Payment information (standardised data) electronically. The information links the payment made by the employer to the employees account in the relevant superfund/s.

- SuperStream is **mandatory** for all employers who make superannuation guarantee payments or any other superannuation contributions for employees.
- Employers must provide the minimum data to the super fund or clearing house **electronically**.
- Ensure payments and data are linked by a unique payment reference number.
- Ensure data and payments are sent on the **same day**.
- Super funds are required to process contributions into the members account within 3 days.
- Superannuation funds are obliged to contact employers within 5 days if data is missing or invalid.
- Employers must respond to any requests from a super fund for missing information or queries relating to employee payments within 10 days.
- Funds will have to refund contributions within 20 working days if they cannot be allocated to an employee.
- It remains your responsibility as the employer to confirm that super contributions have been received, even if you use a clearing house or other service.
- The *Superannuation Guarantee (Administration) Act 1992* requires you to provide a Standard Choice Form to your employees. This form will allow you to collect the required SuperStream related information from employees.

### Further Information

[FairWork](#)  
[Australian Taxation Office](#)

[Department of Human Services](#)  
[Guide to Employing People](#)

Disclaimer: All or any advice contained in this newsletter is of a general nature only and may not apply to your individual business circumstances.

For specific advice relating to your specific situation, please contact your accountant or contact me for further discussion.

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