# SUPERMATTERS

SUPERANNUATION STRATEGIES FOR YOU AND YOUR BUSINESS

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## How will the superannuation amnesty law affect you?

Employers now have six months to rectify any unpaid superannuation guarantee (SG) or risk being faced with tough penalties in the future.

The Treasury Laws Amendment Recovering Unpaid Superannuation Bill 2019 was passed by Parliament on 24 February 2020, giving non-complying employers the chance to amend any historical SG shortfalls committed during the period between 1 July 1992 to 24 May 2018. Employers with SG shortfalls after this date will not be able to benefit from the amnesty.

The one-off amnesty was introduced to create a fresh start for non-complying employers to pay their workers what they're owed in SG. This comes after the ATO estimated an SG gap of $2.3 billion for the 2016-17 income year.

Employers who use the amnesty must also pay the normal interest rate and general interest charge (GIC) when paying owed SG to their employees. However, the ordinary penalties (up to 200% of the SG charge) that would normally apply to late payments would not have to be paid under the amnesty. SG payments made during the amnesty will also bypass the ordinary $20 per employee administration charges.

Employers who use the amnesty to pay SG debts will be able to claim a deduction for SG charge payments and contributions made during the amnesty. They will also be able to pay the SG directly into the super funds of employees instead of passing them through the ATO.

The ATO will continue to undertake its regular audits during the amnesty period and the usual enforcement actions will be taken against non-complying employers who do not voluntarily use the amnesty to amend their unpaid SG.

Non-complying employers who do not use the amnesty period to rectify their historically unpaid SG will also face higher penalties if they are caught. The penalties may include a minimum 100% penalty as well as the SG charge, which includes a 10% interest and administration fee. If the employer lodges an SG statement late, then the ATO may raise an additional penalty of up to 200%, whereas in normal cases, the ATO can remit this charge to nil.


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# Contribution changes for older Australians

The last Federal Budget announced superannuation changes that aim to increase the contribution opportunities for individuals between the ages of 65-74.

**Work test exemption:**

The work test will no longer be a requirement for individuals aged 65 and 66 who wish to make voluntary superannuation contributions from 1 July 2020. This allows opportunities for both concessional and non-concessional voluntary contributions for individuals who would currently miss out due to not working regularly.

The government has estimated that this change will benefit around 55,000 Australians within 2020-21.

**Bring-forward contribution eligibility to be extended:**

The non-concessional contributions cap bring-forward rule is proposed to be extended to people aged 65 and 66 from 1 July 2020. The option to bring-forward contributions is not currently available for individuals who have reached 65.

Bring-forward contributions allow you to make up to three years of non-concessional contributions to your superannuation in a single year (capped at $100,000 a year), which helps boost your superannuation fund assets available for investment.

**Age limit extension for spouse contributions:**

Currently, your spouse can make superannuation contributions into your account until you reach the age of 70, where you must also meet the work test before you make a contribution between the ages 65-69.

It is proposed that from 1 July 2020, the age limit for spouse contributions will be extended to age 74. In addition to this, the partner receiving contributions from their spouse will no longer have to meet the work test when they are 65 or 66, but will need to meet the work test from the age of 67.

**Reducing compliance costs for pension funds:**

The Government proposes the simplification of administering and calculating the exemption current pension income (ECPI) rules for superannuation funds paying pensions. This will allow certain funds to apply a single calculation method to simplify compliance for these provisions.

The new system is set to apply from 1 July 2020. It may also remove the need for super funds to obtain an actuarial certificate to support ECPI claims.

# PYS and hiking administration fees

Superannuation administration fees are projected to be on the rise due to the continuing effects of Protecting Your Super (PYS) legislation reforms implemented in October 2019.

While the PYS reforms were designed to reduce costly multiple accounts and so-called "zombie insurances", the introduced accumulative 3% cap on direct and indirect fees on super accounts under $6000 has meant that super funds have been unable to cover administration costs with their previous fees.

With the PYS laws targeting low-balance accounts, many super funds have lost the ability to make profits off of inactive super funds and since October 2019, the industry has begun turning to other operation funding methods.

For most super funds, this has meant implementing additional levies and hiking up fees for all their members. Since the new year, many of Australia's largest super funds have increased fees by up to 0.005% in addition to existing flat rate administration fees.

Ever since the new PYS regulatory legislation, experts have warned Australians to expect continual increases in their super fees, with only a minority of Australia's super funds maintaining their fees since 2019.

With the latest developments, Australian workers are encouraged to be more aware of their super funds and take into account the new increasing fees when planning their super fund contributions and retirement plans.

# You can now opt-out of SG as a high income earner

If you've unintentionally been going over your superannuation concessional contributions cap in past years, you may not have to worry about it from now on.

As of 1 January 2020, eligible individuals with multiple jobs can apply to opt-out of receiving super guarantee (SG) from some of their employers.

You may be eligible to apply if you:

- have more than one employer, and
- expect that your employers' mandatory concessional super contributions will exceed your concessional contributions cap for a financial year.

Employees who are eligible can apply for the super guarantee shortfall exemption certificate when they complete the Super guarantee opt-out for high income earners with multiple employers form (NAT 75067).

When you opt-out of SG contributions, you must still receive SGC from at least one employer. If other employers agree to use the SG exemption, then they may provide an alternative remuneration package instead, as to not be disadvantaged. However, the exemption certificate:

- Does not restrict the employer from making super contributions on behalf of the employee.
- Does not change the employer's obligations or an employer's agreement with their super fund.
- Cannot be varied or revoked once issued.

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